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THE PREHISTORY OF EAST TENNESSEE*

By WILLIAM S. WEBB

Mr. President, members of the East Tennessee Historical Society, and guests: Your speaker is deeply sensible of the honor which you have done him in extending the invitation to address you on this occasion. So great was his appreciation of this invitation that he was led to an immediate acceptance of it, before his better and more mature judgment could point out the manifest presumption of his act.

Certainly it may be considered the height of presumption for one not a native of Tennessee, with but little formal training in the technique of historical research, and with no adequate knowledge of the recorded history of this state, to appear before this body of native Tennesseans, distinguished students of the history of this region, in an attempt to bring to them a worthwhile message.

It is further to be remembered that by many eminent historians archaeology is hardly as yet regarded as a historical science, and that the conclusions reached as a result of archaeological investigation oftentimes lack general acceptance by the historian. The reason for this attitude of the historian toward archaeological findings in general is not difficult to understand. The student of history organizes his science by hanging all events on a framework of chronology. This framework has been previously determined, is of universal acceptance, and is generally intentionally related by the original actors to the event recorded. To the historian, the date of an event so fixes this event in the chronological framework that the terms "before" and "after" have very definite quantitative meaning.

Unfortunately for the science of archaeology in North America, the terms just used have had no exact quantitative significance until very recent times, because of the absence of an established chronology. Only within the last few decades has the translation of the Maya hieroglyphics reached such a development that archaeology in Middle America has had an adequate chronological system. Very recently wonderful developments in archaeology in the southwestern United States have followed from the application of the new science of dendrochronology.

*An abstract of an address by the author at the annual banquet of The East Tennessee Historical Society at the Hotel Andrew Johnson, Knoxville, October 4, 1935.

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Only within the last eighteen months has any successful attempt been made in the southeastern United States to assign actual dates to prehistoric sites. This has come about because of the discovery that the methods of dendrochronology are applicable to this area even though our Southland is not an arid region. As the result of this discovery a chronological framework is being constructed, to which, it is hoped, prehistoric events may be related with as great certainty as any historic event is related to the Gregorian calendar. The members of this Society will be pleased to know that this important advance has been made in East Tennessee and that much of the preliminary work has been actually accomplished in the city of Knoxville. And so it is because prehistoric events in East Tennessee may soon come to be regarded as historic, that your speaker has ventured to discuss a subject of prehistory before a historical society.

Your speaker's interest in the prehistory of East Tennessee began in 1934 when he was asked by the Tennessee Valley Authority to take charge of the clearance of archaeological sites in the Norris Basin. Up to that time no considerable archaeological investigations using modern techniques had ever been undertaken in the region, and practically the entire knowledge of the early occupation of East Tennessee consisted of the reports of travelers and explorers of colonial times who had visited the various Indian settlements. These men came in the pursuit of their own affairs, as traders, soldiers, or agents of church or state. None were trained ethnologists, and few were interested in the Indian beyond their own immediate purposes. Yet it is remarkable how much important ethnological information these early travelers obtained and reported. It is not the purpose of this discussion to review these written documents, or to discuss their merits. Their content and validity are well known to the members of this Society—doubtless much more exactly than to your speaker.

The early writings just referred to show clearly that the great Cherokee Indian nation was dominant in the southern Appalachian region in colonial times, holding sway over an area of approximately 40,000 square miles. During most of the eighteenth century the Cherokee were at war with one or the other of their remote Indian neighbors and often came into conflict with armed forces of neighboring white settlers. Whether victorious or defeated, each treaty of peace usually involved a cession of Cherokee territory; between 1721 and 1835 they made thirty-six treaties or cessions of land.[1] In accordance with the last treaty they were removed to their present home

[1]Charles C. Royce, *The Cherokee Nation of Indians* in Fifth Annual *Report* of the Bureau of American Ethnology (Washington, 1887), 129.

in the state of Oklahoma, leaving only a remnant of their kinsfolk in the Southern mountains.

Because of the importance of the Cherokee in early historic times and of the magnitude of their settlements on the Little Tennessee River, only about fifty miles from Norris Basin, it would be natural to suppose that they made large contributions to the archaeology of the basin. The very opposite, however, seems to have been the case.

The archaeological survey of Norris Basin gave the author opportunity to investigate a total of twenty-four prehistoric sites. Of these, five were caves of which we shall speak presently, and eleven were sites of ancient villages. Near the center of each village site were usually found one or more large earth mounds. Upon investigation these earth mounds were determined to have been made by the collapse of wooden structures which had been covered with earth. Successive occupation at each site had been the rule; and after the collapse of the first structure the earth on its roof became the floor for a second structure. Thus the mounds were formed by successive increments, each representing the erection and final collapse of a large earth-covered wooden structure. These large buildings appeared to be "town houses," or communal buildings, of a public nature, where civil, military, or religious ceremonies were conducted. The successive occupancy of a site by a series of town houses produced a stratification easy to observe and showed a definite chronological order of events. Many of these wooden structures, when they had become antiquated, were partially destroyed by fire, while others may have been dismantled by their builders. In every case, on the site there were to be found molds in the earth floors, revealing the location of the posts used in constructing the building. In eleven sites there were found fifty-four post mold patterns. Of these patterns, every one of which was rectangular, twenty-nine were regarded as dwelling houses, and twenty-five were regarded as town houses. In historic times the earth-covered buildings both of the Cherokee and of the Muskogee were all circular in form, as reported by Timberlake[2] and by other writers, and as most beautifully revealed by the recent archaeological investigations of Kelly[3] at Macon, Georgia. Since every one of the fifty-four post mold patterns found in Norris Basin was rectangular, and because of other evidence, it would seem conclusive that the Cherokee were not responsible for their construction.

Further investigations reveal that these town houses fall into two classes as determined by the type of construction. For simplicity they have been designated as "small log" and "large log" types. It appears

[2]Samuel Cole Williams (ed.), *The Memoirs of Lieutenant Henry Timberlake, 1756-1765* (Johnson City, 1927), 59.

[3]A. R. Kelly, unpublished research and explorations still in progress.

that each type of house construction was associated with a series of cultural traits, each group distinct from the other. This would argue the possibility of two different peoples, perhaps living simultaneously, in the same general area, but not necessarily on the same sites. The continued practices of quite dissimilar customs by two peoples, if in close contact, and simultaneously occupying the same region, would definitely suggest the existence of some barrier between them which, while effective in preventing them from acquiring identical traits, was still not of a material kind. Such a barrier to complete unity might have been a difference in language, a difference in religion, or the direct result of different origins.

It would appear, therefore, from the investigations in Norris Basin, that, aside from the occupancy of caves in the region, there were probably two very different people, possibly of different racial stocks, who occupied the basin, perhaps simultaneously, in friendly intercourse, but who remained distinct from each other in cultural traits. Further, it seems impossible to connect either of these vanished peoples with the historic Cherokee. Because of this, and of the further fact that there seems to be no definite historic reference by any of the early writers to any occupancy in this region, it would appear that this occupancy was entirely within the prehistoric. This was further emphasized by the absence of historic material in the excavations.

Within some of the mounds containing post mold patterns of rectangular structures there were found remnants of cedar posts and logs used in the house construction. A definite attempt is being made to date these logs by the science of dendrochronology. It appears that this attempt will be successful. It is a matter of regret that the work has not progressed far enough to be able to announce at this time the actual date of some of these sites. It is hoped that definite announcement can be made in the near future. It is probable, however, from the archaeological data, that this occupancy will be found to extend down to the late prehistoric, and that the conclusion of this occupancy probably marks the actual entrance of the Cherokee into East Tennessee. Some students of Cherokee history have thought that that nation's migration up the Kanawha River from their early home north of the Ohio into the southern Appalachian Mountains may have taken place from six hundred to one thousand years ago. Recent opinion seems to be inclining toward the belief that the Cherokee had been on the Little Tennessee River but a short time—at most a few hundred years—before Fort Loudoun was built and destroyed (1756-1760). In fact, a leading American ethnologist[4] has recently expressed grave doubt that the

[4]John R. Swanton, of the Bureau of American Ethnology, in a personal communication to the writer.

Cherokee were on the Little Tennessee River at the time of De Soto's visit (1540), as has so often been asserted. The actual dating of occupancy of the Norris Basin—the first dating by dendrochronology in the southeastern United States—will have, therefore, far-reaching effect on the organization of the prehistory of East Tennessee.

Reference has been made to the occupancy of caves in Norris Basin. It is surprising to note how definitely this evidence of occupancy differs from that of the builders of mounds and of town house sites, and how definitely similar it is to the occupancy of rock shelters in eastern Kentucky. There can be little doubt that this phase of the great woodlands culture represents some member of the Algonquin linguistic stock. This great linguistic family had many representative tribes scattered throughout the Mississippi Valley to the north and east. Those occupying the caves of Kentucky and Tennessee were a very homogeneous group and seemingly were at a rather low cultural level. Their inability to build dwellings seems to have forced them to use the caves and rock shelters. They had but little use for agriculture beyond the gathering of food from nature's bounty. They appear never to have been completely beyond the danger of famine, and their occupancy of any particular site seems to have been precarious and transient. That these people, living at a lower level of culture and perhaps at a much less population density than the "town house" builders, antedated the latter in Norris Basin there can be little doubt.

Thus the outstanding facts which seem to be demonstrated by the investigation in Norris Basin may be stated as follows:

(1) The occupancy of caves by a people of a rather low cultural level seems proved. Their connection with one of the historic racial stocks seems definite. The time of this occupancy was wholly prehistoric, and is perhaps the earliest in the region.

(2) There was a later and perhaps simultaneous occupancy by two people each having distinctive cultural traits. They have not yet been certainly identified with any historic stocks, but the time of their occupancy is likely to be definitely ascertained. It probably will be shown to have been post-Columbian and to have preceded immediately the historic period.

(3) The Cherokee seem to have made only an insignificant contribution, if any, to the archaeology of the region.

Having stated what he considers demonstrated, your speaker should perhaps bring this discussion to a close. He is aware that by some it may be accounted idle to speculate, but it is also a fact that truth is sometimes revealed in attempting to verify speculations.

Two of the very important questions of the prehistory of East Tennessee relate to (1) the time of the coming of the Cherokee, and (2) the identity of the peoples preceding them in this region.

Since occupancy of Norris Basin is characterized by rectangular structures, and other cultural traits distinctly different from those of the Cherokee, we may well ask what brought to an end the occupancy of Norris Basin. If it may be assumed that this termination came as the result of the advent of the Cherokee, and if we are finally able to date by dendrochronology the last remains of the rectangular structures in Norris Basin, a close approximation to the date of the entrance of the Cherokee into East Tennessee may be obtained.

In 1673 Colonel Abraham Wood, a Virginia Indian trader, sent James Needham and a white servant, Gabriel Arthur, on a journey of exploration into the mountains to the southwestward.[5] They visited and reported on a tribe called the Tamahita and, after the death of Needham, Arthur lived for a season with them. This tribe has been identified as Yuchi,[6] and its early location placed on the westward slope of the mountains, on streams tributary to the Tennessee River.

It is interesting to speculate on the possibility that the builders of the rectangular large log structures in Norris Basin may have been Yuchi. In this connection Arthur mentions another tribe evidently closely associated with the Yuchi. He says: "All ye Wesock children they take are brought up with them as ye Ianesaryes are a mongst ye Turkes."[7] If the Wesock of Arthur, probably a Siouan tribe, account for this other phase of culture in the Norris Basin, we may have a vague and uncertain suggestion of the identity of the people on the streams tributary to the Tennessee, before the coming of the Cherokee. Thus may we speculate.

Much of the final writing of the prehistory of East Tennessee is yet to be done. This Society and all Tennessee is to be congratulated on the attempt recently begun by the University of Tennessee to continue the study of prehistory in this state. The establishment of a department of archaeology at the University of Tennessee and its occupancy by so able a research worker in prehistory[8] guarantee the solution of many of the unsolved problems of early times and a great advance in the knowledge of the prehistory of southeastern United States.

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[5]Clarence Walworth Alvord and Lee Bidgood, *The First Explorations of the Trans-Allegheny Region by the Virginians, 1650-1674* (Cleveland, 1912), 212.

[6]John R. Swanton, *Early History of the Creek Indians and their Neighbors* [Bureau of American Ethnology, *Bulletin* 73] (Washington, 1922), 188-189.

[7]Alvord and Bidgood, *op. cit.*, 218.

[8]The reference is to Professor T. M. N. Lewis [Ed.].

THE BUILDING OF THE MEMPHIS AND CHARLESTON RAILROAD

By T. D. Clark

The Memphis and Charleston Railroad grew out of numerous attempts made in the second quarter of the nineteenth century to connect the East and the West. The West at that time followed the line of least resistance, and so long as the Mississippi River brought a stream of traffic into Memphis, planters and merchants were little disposed to make efforts at improving transportation facilities from Memphis to other sections of the country. However, Memphis had well developed ambitions to become the gateway to the West, but to realize these she would have to connect with the Atlantic seaboard. Not only was Memphis vitally interested in intersectional transportation, but likewise the communities between Memphis and the seaboard; in fact, it was from one of these communities that the first move to form an east to west connection was made. Thus, this is the story of the building of a railroad from Memphis to Chattanooga, where connections were formed with the railways of East Tennessee, Georgia, and South Carolina.

Northern Alabama was a newly settled country at the time the railroad idea was introduced into the United States, but despite the newness of the section a thriving trade was plying its way up and down the Tennessee River Valley. A serious obstacle to this trade, however, was the Muscle Shoals, which prevented heavily laden craft from navigating the river except during the flush season. Profiting by the example the progressive citizens of South Carolina were setting, citizens of Tuscumbia, Alabama, became interested in the railroad as a possible solution of their problem of getting around the shoals. Agitation for a railroad was started as early as the first months of 1829. Few had ever seen a railroad, and they knew little, if anything, about what it was like. Nevertheless, many felt sure that the community could build at least the two and a fraction miles of road necessary to connect the town and the river.[1] A delegation was sent to the Alabama legislature, and on January 15, 1830, the Tuscumbia Railroad Company was chartered,

[1] *Laws of Alabama,* 1829-1830 (Montgomery), 46.

the first west of the Appalachian Mountains.[2] The capital stock, $20,000, was subscribed almost immediately after the company was chartered, but construction was delayed until June 1, 1831. The right-of-way, when it was secured, was a winding affair, some of the curves having a radius of 400 feet, and the roadbed had a maximum inclination of twenty feet per mile. The roadbed was poorly graded. The track was laid transversely on five by seven inch string pieces, on top of which a two by one-half inch iron strip was placed. The gauge was five feet and nine inches, and the space between the sills was converted into a treadway for the horses drawing the cars.[3] On June 12, 1832, the opening of the road was made possible.[4]

The completion of the Tuscumbia road sharpened the appetite of the railway supporters for more. On January 13, 1832, a charter was granted the Tuscumbia, Courtland, and Decatur Railroad Company, with Benjamin Sherrod as president. The new company was to be capitalized at any sum the directors deemed advisable, provided it did not exceed $1,000,000. Subscribers accepting stock also accepted a joint responsibility for the financial future of the company, because their estates automatically became security for the debts of the company. The newly chartered road was to begin at Tuscumbia and extend to Decatur in Morgan county by way of Courtland, a distance of forty-three and one-tenth miles.[5] The stock for the longer line was subscribed immediately; the company was organized; and plans were set on foot to start a survey by February, 1833. By May of that year a portion of the road was under contract, and the task of grading the roadbed was well under way. In March, 1834, the steamer *James Monroe* arrived at Waterloo, Alabama, with iron for the road. Damage to the vessel, on which two freight cars had been shipped, had delayed operations.[6]

On July 4, 1834, the horse-drawn cars of the infant railroad clamored into the little town of Courtland, a distance of twenty-three and one-fourth miles from Tuscumbia. As on the Tuscumbia road, the sills had been laid five feet and nine inches apart, allowing a suitable treadway for the horses in the center.[7] The cost of the road, including turn-outs at intervals of every two miles, averaged around $4,000 per mile.

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[2]The Pontchartrain Railroad Company of Louisiana was chartered on January 20, 1830, and the Lexington and Ohio (Kentucky) was chartered on January 27, 1830 (John G. Starr, *One Hundred Years of American Railroading* [New York, 1929], 138; *Laws of Kentucky, 1829-1830* [Frankfort], 126).

[3]Albert Pickett, *History of Alabama, and Incidentally of Georgia and Mississippi from the Very Early Period* (Birmingham, 1909), 688.

[4]"Letter from Chief Engineer Deshler, August 19, 1834," in *The American Railroad Journal* [New York], October 4, 1834.

[5]*Laws of Alabama*, January 13, 1832, p. 67.

[6]"Letter from Chief Engineer Deshler, August 19, 1834," in *The American Railroad Journal*, October 4, 1834.

[7]*Ibid.*, October 4, 1834.

Until June 1, 1834, horses were used as the only form of motive power, but upon that date the company partly mechanized the road by placing in operation a little four and one-half ton locomotive with an eight-inch stroke. The engine was able to maintain the then unbelievable speed of forty miles per hour.[8] On January 8, 1835, the cars passed over the entire length of the road from Tuscumbia to Decatur, and from that time the road was in active use day and night transporting the cotton crop of the up-country to the river front below the falls.[9]

Almost from the beginning the road encountered financial difficulties and it was necessary on October 1, 1833, to execute a first mortgage because of the failure of the stockholders to pay their pledges. To insure this mortgage, a lien was given upon the entire holdings of the company, and it was upon borrowed funds that the road was completed to Decatur.[10] After the refusal of the Mississippi legislature to charter the road through the northeastern counties of that state, confusion arose between the directors and the officials of the company. The roadbed was allowed to run down, and in 1840 the company defaulted in its interest payments. A holding company was then formed to take over the road and to hold it until final payment was made. During the time that the settlement of the road's affairs was pending the creditors leased the road to Messrs. Reese, Farrier, and Banks to be operated in connection with their steamboat trade from Tuscumbia westward. They were the holders of $76,000 worth of first mortgage bonds on which interest payments had been defaulted since 1840. The road was advertised for sale and foreclosed September 22, 1847, at public auction.[11] It was bought in by David Deshler, former chief engineer, and was incorporated into the Tennessee Valley Railroad Company on February 10, 1848. After the incorporation of the Tennessee Valley Company nothing seems to have been done with the road until 1850, when the newly chartered Memphis and Charleston Railroad Company effected an agreement with the Tennessee Valley Company to incorporate its holdings into a general system connecting the Mississippi River with the Atlantic seaboard.[12]

Memphis had possibilities of becoming the commercial center of West Tennessee, provided suitable transportation facilities could be developed. The soil of the Memphis territory was of an alluvial type, which in the history of road building never has proved conducive to successful highway construction, and especially is this true when the surface of the road is left exposed. From the beginning Memphis took her place as a cot-

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[8] *Ibid.*, October 4, 1834.
[9] *Ibid.*, October 4, 1834.
[10] Fairfax Harrison, *A History of the Legal Development of the Southern Railway Company* (Washington, 1901), 717.
[11] *Ibid.*, 717.
[12] *Laws of Alabama*, January 7, 1850, No. 128, p. 183.

ton market and distributing center for West Tennessee and the northeastern counties of Mississippi.

Edmund Pendleton Gaines was transferred to the Memphis territory in the military service of the United States. He was a native of Virginia, and naturally was interested in developing the Atlantic seaboard. In 1807, when Gaines was sent out to arrest Aaron Burr, he began thinking of the possibilities of tying the West to the East with a system of turnpikes and canals. In 1826 he approached the national government through the war department with his plans for connecting the East and the West. The war department, however, was in no position to heed his suggestion.[13] Undaunted by his government's indifference, Gaines proceeded to secure all the information possible about the territory east of Memphis, because there was the possibility that in the near future he would be in a position to use this information to good advantage. Certainly there was a possibility, for the citizens of Tuscumbia were already industriously engaged in building a link of road which could easily be extended into a Memphis to Atlantic project. Much thought was given the difficulty of passing to and from Memphis over the miry roads of Shelby and adjoining counties. A request was made to the state legislature, praying—a prayer the legislature granted—that a charter be granted a railroad company "for the purpose of facilitating intercourse between the towns of LaGrange in Fayette County, and Memphis in Shelby County, and for no other purpose whatsoever."[14]

Memphis was looked upon as the possible terminus of a railroad extending westward from Charleston as early as 1831 by John C. Calhoun and his followers. The chartering of the Memphis Railroad Company helped to strengthen the notion. That belief accounts for the change in name from the Memphis Railroad Company to the Atlantic and Mississippi Railroad Company.[15]

The citizens of Bolivar, Tennessee, in need of an outlet for their produce, on March 22, 1834, revived the question of constructing a railway by calling a joint meeting of the citizens of McNairy, Fayette, and Shelby counties. The question of prime importance at this meeting was the construction of a railroad from Memphis to some point on the Tennessee River.[16]

John C. Calhoun and Robert Y. Hayne had their eyes on the West as a source of supply for the South, but it was impossible for those gentlemen to agree on the point where the proposed road should tap the Mississippi River trade. Calhoun favored the Muscle Shoals route for

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[13]St. George L. Sioussat, "Memphis As a Gateway of the West," in *Tennessee Historical Magazine*, III (1917), 8ff.

[14]*Laws of Tennessee* (Nashville), December 17, 1831, chapter ccxxi, 185.

[15]*Private Acts of Tennessee*, 1833, chapter 49.

[16]Charles Robert, *Nashville and Her Trade for 1870* (Nashville, 1870), 304.

he believed that Memphis was the most satisfactory point at which the Charleston road should terminate in the West. With this idea in mind he made a joint appeal in 1835 to the citizens of Fayette and Shelby counties for a charter, and for their support in building such a road.[17] The LaGrange and Memphis road was chartered December 14, 1835, with a capital stock of $375,000.[18] During the legislative session of 1835 and 1836 the Tennessee legislature felt that it was the duty of the state to assist the Memphians in reaching their goal by offering them state aid. The railroad company, according to the legislative plan, was asked to raise two-thirds of the capital stock and the legislature would provide the remaining one-third.[19]

In 1837 the LaGrange and Memphis Company finally secured enough financial support to begin construction. A roadbed from Memphis to LaGrange, Tennessee, was graded, and the track laid for a distance of six miles. Due to the poor construction, however, wrecks were numerous, causing serious damage both to coaches and to passengers.[20] The first coaches to be used on the new road were horse-drawn English stage-coaches equipped with flanged wheels. The first locomotive was of Philadelphia manufacture, and was brought to Memphis by boat. When it was made known that the boat bearing the locomotive was about to land, a goodly crowd gathered on the bluff to witness the unloading. Immediately after the boat had landed, the little engine was crowned with flowers. The president of the company then offered all who would assist with the unloading a free ride in the coaches. The engine was hauled through the streets of Memphis to the rails by the mob, preceded by a brass band. The ceremony of placing the locomotive on the rails was carried out in due style. A problem arose, however, when the engine was placed on the rails—who would drive it? No one knew how to operate the thing, and it was a day or two before a mechanic with enough courage and mechanical skill could be found to undertake the task. After the engine was started, it took a considerable amount of persuasion to find passengers enough to give a demonstration. Many of those who had so enthusiastically helped convey the engine from the boat-landing to the railroad allowed their courage to fail them. When the trial run was made, the bystanders were disgusted that the locomotive went no faster than the average coach team.[21]

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[17]Robert Y. Hayne favored a road to Cincinnati and the Northwest. For Calhoun's views see Samuel C. Williams, *Beginnings of West Tennessee* (Johnson City, 1930), 171.

[18]*Laws of Tennessee*, December 17, 1835 (special act). Of this rare work the copy used was in the Tennessee State Library, Nashville.

[19]Williams, *op. cit.*, 171.

[20]The Memphis and LaGrange Company had its offices in LaGrange.

[21]Memphis *Commercial Appeal* (historical edition), December 30, 1900.

The LaGrange and Memphis Company had a gloomy history, for the road was in operation for a period of only eight months.[22] The farmers, coming in from the outskirts of Shelby county, had no reason for transferring their produce to the cars after they themselves had bumped over the roads of the county to the railway station; the transfer would relieve them of only six miles of additional road travel. The panic of 1837 afflicted the LaGrange and Memphis Company with an ill which proved too serious for it to overcome. There were various scheming friends who hoped to put the project back on its feet. One of these, John Christian McLemore, conceived a plan by which he hoped that both he and the railroad company might be benefited. He owned 208 acres of land to the south of Memphis at Fort Pickering, and he suggested that the railroad company should take over his land, paying him a stipulated sum, and then lay off the land in lots to be sold to those individuals who were in favor of building a town in competition with Memphis. The railway officials were foolish enough to accept the scheme, but it failed simultaneously with the railway venture.[23]

Colonel Stephen H. Long expressed himself as being wholly dissatisfied with the survey which had been ordered by Lewis Cass, secretary of war, in 1834. Colonel Long objected to that early survey because it anticipated using the Tennessee River as an auxiliary carrier. The question of extending the railroad from the Atlantic to the Mississippi was one that was uppermost in the minds of the founders of the two early links of railroad between Memphis and the Georgia state line. A plan was put on foot as early as 1834 to extend the Tuscumbia, Courtland, and Decatur road as far west as Memphis. A convention, calling together the citizens of Madison, Morgan, Limestone, Franklin, and Lawrence counties, was called in the county courthouse in Huntsville, Alabama, on August 13, 1835, for the distinct purpose of considering the extension of the road to Huntsville on the east, and to Memphis on the west. Clements C. Clay was appointed presiding officer, and resolutions were adopted to the effect that $200,000 be subscribed before the legislature was memorialized for a charter, and that a second meeting should be called to pass upon the charter to be granted by the legislative body.[24]

The convention of the Alabama counties anticipated that the Memphis project would succeed, but when President Charles Potts made his annual report in 1839, it was to the effect that the LaGrange and Memphis Company was insolvent, that is, unless the solvent members, who had subscribed to its stock in order to enable the company to secure state aid, would redeem their pledges. A drive was made to secure at least

[22] James D. Davis, *History of Memphis* (Memphis, 1873), 30.
[23] Williams, *op. cit.*, 171.
[24] *Southern Advocate* (Huntsville), August 6, 1836.

fifty per cent of the pledges, but the subscribers refused to advance any further payments.[25]

By a series of legislative acts the LaGrange and Memphis Company acquired the rights and privileges to build as many branches into the counties of West Tennessee as it might see fit to build.[26] The privilege of building branch roads was a millstone about the company's neck, however, for the legislature went to the extent of moving up the time limit for the completion of the road, but to no avail.[27] The directors of the company were unable to stir themselves from their suicidal lethargy. A desperate effort was made at the LaGrange convention on July 4, 1849, when a special committee was appointed to discover, if it could, means by which the road might be completed. The committee failed in its efforts. The legislature remained ambitious for the road, but the venture failed. Plans had already been made for the Memphis convention of 1849, so the LaGrange Company gave up the ghost.[28] The affairs of the old LaGrange and Memphis Company were finally brought to a close under an act of the legislature authorizing the final settlement of the company's affairs.[29]

The people of Memphis were thoroughly conscious of the importance of a direct means of communication between the Mississippi River and the Atlantic ports to the east. As to resources, there was no question, because the road, as already indirectly projected in the LaGrange and Memphis, and the Tuscumbia, Courtland, and Decatur projects, had proved the existence of sufficient resources. The proposed east and west road would tap the rich cotton producing counties of southern Tennessee and the Tennessee River counties of northern Alabama. Without these resources, however, the trade from the east to the west and *vice versa* would have served as a sufficient stimulus for the construction of the road. The railroad companies and the citizens of Georgia and South Carolina were favorably disposed toward the idea. The federal government also favored the project for it looked upon the road as a solution to the problem of patrolling the western frontier.

In 1845 the cotton growers and merchants of the neighboring towns to Memphis brought up once again the question of building a railroad from Memphis to Charleston.[30] The general agitation came to a head in the Memphis convention of 1845. That convention marked the triumph of the group headed by John C. Calhoun. That group had argued since 1830 that such a project was feasible. The convention was

[25] *Annual Report Tuscumbia and Decatur* [Railroad Company], 1839.
[26] *Laws of Tennessee,* December 30, 1841, chapter 28, p. 25.
[27] *Ibid.,* January 10, 1844, chapter 73, p. 93.
[28] Memphis *Tri-Weekly Appeal,* October 25, 1849.
[29] *Laws of Tennessee,* February 9, 1854, chapter 328, p. 771.
[30] James Phelan, *History of Tennessee* (Boston, 1888), 286.

presided over by Calhoun and he threw open the floor to free discussion of several projects which the friends of internal improvement had in mind. Calhoun avowed himself in favor of federal aid for the improvement of the channel of the Mississippi River.[31]

The Tennessee legislature, largely due to the influence of the Memphis convention of 1845, chartered the Memphis and Charleston Railroad Company February 2, 1846.[32] This newly chartered project was broader in scope than ever could have been possible with the two local companies which it absorbed.[33]

The convention which met in Memphis October 23, 1849, was composed of enthusiastic Memphis and Charleston Railroad supporters from West Tennessee, Mississippi, Georgia, and South Carolina. Ex-Governor "Lean Jimmy" Jones of Tennessee, a staunch railway supporter, acted as presiding officer. His first official act was to open subscription books. The results were most gratifying, as $50,000 were subscribed in less than thirty minutes.[34] That convention was followed by still others along the proposed route. In Huntsville, Alabama, on November 4, 1849, the interested citizens expressed their desire for a road which would link them with the trade of South Carolina and Georgia. Memphis had already made known the fact that she would subscribe $500,000. That liberal promise on the part of Memphis stirred other towns to do likewise.[35] The agitators favoring the road used the plea that the newly chartered Memphis and Charleston project would link the communities of West Tennessee, northern Mississippi, and northern Alabama with the markets of Charleston, and with Nashville.[36]

It was fortunate that the Memphis and Charleston Company had in its ranks two able supporters, "Lean Jimmy" Jones and Sam Tate.[37] The former took the stump in favor of the road. Books were opened immediately, and within three days $295,000 had been subscribed. A delegation was present at the Huntsville convention to represent the Tennessee River Valley Railroad Company. The delegation agreed to submit its franchise to the Memphis and Charleston Company and to make an additional subscription, provided the latter company would appoint a competent commission to inspect the properties of the Tennessee Valley Company and to make a joint estimation of its value. The convention adopted resolutions to the effect that the proposition of the

[31] *Ibid.*, 285.

[32] *Laws of Tennessee*, 1845-1846, chapter 182, p. 266.

[33] The road was not built until in the fifties, however; all the intervening time was spent by officials of the company in stirring up sentiment favorable to the project.

[34] Memphis *Tri-Weekly Appeal*, October 25, 1849.

[35] *Southern Advocate*, October 25, 1849.

[36] *The American Railroad Journal*, November 10, 1849.

[37] Sam Tate became president of the road on April 1, 1854. He succeeded A. E. Mills, who in turn had succeeded "Lean Jimmy" Jones (*Annual Report*, 1854).

Tennessee Valley Company be accepted, starting from Memphis as the western terminus, and following the old LaGrange and Memphis and the Tuscumbia and Decatur lines as a general guide.[38]

The securing of the right-of-way between the points covered by the charters of the two railways which had merged with the Memphis and Charleston Company was a much more difficult problem than the commissioners ever had supposed it would be.[39] The topography of the country through the southern part of Tennessee was a very influential factor in the location of the route. It was necessary to drop down into the northern counties of Mississippi in order to avoid the steep grades which existed along the southern boundary of Tennessee. The Mississippi route was over a gentle rolling terrain. If the road were to be constructed over the Tennessee route, it was quite obvious that it would have to turn south almost at a right angle in order to connect with the Tennessee Valley road. Then, too, the gorge formed by the Tennessee River was not a very cheerful inducement to the Memphis and Charleston builders attempting such a thing. It was a certainty from the time of the Memphis convention of 1845 that the Holly Springs, Mississippi, group would hold out for the projection of the road through that city. With these facts in hand the commissioners of the railroad company approached the legislature of Mississippi for legislative sanction of their intentions to direct the route of the Memphis and Charleston Company through the northern counties of the state.[40]

The commissioners were not as hospitably received in Mississippi as they had been in Alabama. The legislature passed an act, which became a law without the governor's signature, that if the road were to be built through Mississippi, it would have to pass through Holly Springs, else the legislature would refuse to sanction a charter. The act giving the company permission to pass through Mississippi read in part as follows: "That the said company shall have the right-of-way through the territory of this state, to construct their said road, beginning at some point on the northern boundary of the state, and to pass through the town of Holly Springs, and thence easterly through the state to the eastern boundary thereof, so as to cross the western boundary of the state of Alabama at any point which may be desired."[41] The act was wholly unacceptable to the Memphis and Charleston Company, and it was necessary for the legislature of Tennessee to come to the rescue of the Memphis and Charleston Company. Tennessee's legislators passed an act granting a Mississippi company, the New Orleans, Jackson, and

[38] *The Southern Advocate*, December 7, 1849.

[39] The LaGrange and Memphis and the Tennessee Valley companies.

[40] The legislature of Alabama sanctioned the building of the Memphis and Charleston Railroad through that state (*Laws of Alabama*, 1849-1850, No. 128, p. 183).

[41] *Laws of Mississippi* (Jackson), 1850, chapter 336, p. 509.

Great Northern, the privilege of building its line all the way across the state of Tennessee from the southern boundary, west of the Tennessee River, to the northern boundary of the state.[42] At the same time legislative provisions were made for the Memphis and Charleston Company to extend its line across the southern section of Tennessee to a connection with the Nashville and Chattanooga road at some point in Tennessee.[43] Thus fortified, the commissioners re-appeared before the Mississippi legislature to implore that body to charter the Memphis and Charleston road through that state on more generous terms. The legislature finally yielded by passing a bill allowing the company to survey the right-of-way across the state at any place it chose, provided the governor would sanction the measure with his signature. The governor refused to sign the bill unless he were granted the privilege of selecting an engineer to make the survey. The engineer was to instruct the governor as to the most advisable routes, and the governor was then to select the route that best suited him. The bill also stipulated that the road should pass, as nearly as possible, through the center of Tishomingo, Tippah, and Marshall counties. It was to pass through the center of Marshall county to Holly Springs, thence to the northeastern corner of the state. As a reward for the location of the road over the right-of-way just described, the legislature provided that $500,000 should be subscribed to the capital stock of the company, but the joker in the situation was that the act failed to state who should subscribe the stock, whether the state, or the town of Holly Springs and the surrounding counties. There was one section of the act which provided that the commissioners of the railroad company could go ahead and locate the road where they saw fit, provided the engineer employed by the state of Mississippi decided that the Holly Springs route was wholly impractical.[44]

Had the route by way of Holly Springs been accepted, it would have necessitated the building of ten miles more trackage at an additional expenditure of $195,000.[45] Already LaGrange and Tuscumbia had been selected definitely as points on the road,[46] and to distort the route

[42] *Laws of Tennessee,* 1851-1852, chapter 209, p. 314.

[43] On the failure of the Memphis and Charleston Company to secure favorable legislation at the hands of the legislatures of Mississippi and Tennessee, the Alabama legislature made provisions for the construction of a railroad of its own, this road to be known as the Mississippi and Atlantic Railroad Company (*Laws of Alabama,* February 12, 1850, No. 129, p. 185).

[44] *Laws of Mississippi,* March 11, 1852, chapter 35, p. 101.

[45] The railroad company asked for only seventy miles of right-of-way through Mississippi, but at the first signs of the legislature giving way to the company, the citizens of the northern part of the state said the road either should be built through Holly Springs or not pollute the soil of Mississippi. The citizens said further that if the legislature did permit the railroad company to choose its route, they would resist the act legally and forcefully (*Southern Advocate,* March 10, 1852).

[46] A promise had been made at the time of the purchases of the LaGrange and Memphis, and the Tennessee Valley companies.

so as to go by Holly Springs would have been preposterous.[47] After a heated argument of four years, the Mississippi legislature finally yielded, and the Memphis and Charleston Campany was allowed the privilege of locating its Mississippi right-of-way where it pleased.[48]

While the Mississippi controversy was being settled, the citizens of Madison county, Alabama, were busy making preparations to build the road through their community. Already $340,000, two-thirds of which had come from the town of Huntsville, had been subscribed. Two survey parties were placed in the field west of Huntsville to make surveys of two separate routes to the western line of Alabama. A railroad of such far-reaching influence was of vital concern to Madison county, because that county had a large amount of capital, and 13,000 slaves seeking employment.[49] The railroad company was faring decently elsewhere in its territory. The engineers estimated that the total cost of the road from Memphis to Stevenson, Alabama, would range between $2,500,000 and $3,000,000.[50] On April 29, 1850, the company was formed with "Lean Jimmy" Jones, R. C. Pickley, Daniel Looney of Tennessee; Judge Clayton of Mississippi; and Robert Ferne, George Berine, R. M. Patton, and J. C. Goodloe of Alabama, as directors. "Lean Jimmy" Jones was unanimously elected president of the board of directors, and the young company set forth upon its own feet.[51]

Two survey parties had been in the field, one since July 12, and the other since August 26, 1850, for the purpose of making a thorough survey of the whole route. A survey of 539 miles of line, using Huntsville as a starting point, was made.[52] The route of the survey by way of Jackson, Tennessee, showed a saving in distance of several miles, but it had a gradient of 45.24 feet per mile with only slight curvatures. The southern route through Mississippi was longer, but had a much

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[47]*Chief Engineer's Report* (Memphis), April 1, 1853. Copy in Bureau of Railway Economics, Washington, D. C.

[48]The company in an earlier act had been forced to grant aid to the Mississippi Central Company, and the state of Tennessee had been asked to grant a charter to the New Orleans, Jackson, and Great Northern Company. The final act, however, granted the Memphis and Charleston Company the following privilege: "That the said company shall have *unrestricted right-of-way* to construct their road through the territory of this state, entering the state at any point that they may desire on the eastern boundary thereof, so as to form a connection between Memphis in the state of Tennessee and Charleston, South Carolina, or other Atlantic ports" (*Laws of Mississippi*, March 1, 1854, chapter 9, p. 83). With the exception of certain temporary complications arising out of the relations with the Mississippi Central Company, the Memphis and Charleston Company accepted the charter (Hester *v.* Memphis and Charleston Railroad Company, 3 George, Mississippi *Reports*, 378).

[49]Memphis *Appeal*, September 12, 1850.

[50]Mobile *Advertiser*, January 30, 1850.

[51]"Annual Report," in *The American Railroad Journal*, April 27, 1850, also June 1, 1850.

[52]*Ibid.*, June 1, 1851.

more even gradient.[53] Immediately following publication of the engineer's report, the mayor of Memphis authorized the issuance of $200,000 in city bonds, to be paid to the company not later than April 1, 1851.[54] At the same time that the city of Memphis was offering its support, the citizens of Marshall county, Mississippi, voted favorably upon the proposition to extend the railroad company a subscription of $100,000. The Marshall county stock was subscribed, however, on the condition that the road would pass through the town of Holly Springs.[55]

"Lean Jimmy" Jones took it upon himself to see the road through its financial troubles. He visited New Orleans on a speaking tour in favor of the road. As a result of his first speech in that southern city, he secured a subscription of $700,000, and upon making a second speech, he secured an additional $100,000.[56] Jones pointed out to his New Orleans hearers that more than 250,000 bales of cotton would be lost to the New Orleans trade unless Memphis and New Orleans beat the Mobile and Ohio Railroad Company to the territory east of Memphis with a railroad. He also said that because of the cheaper freight rates which the cotton planters would receive, the Memphis and Charleston Railroad Company would be able to maintain the cotton trade for New Orleans.[57] Unwilling to neglect any opportunities to secure subscriptions for the road, Jones visited Charleston, where he made a strong plea to the citizens of that city. There, as in New Orleans, he met with a fair amount of success. The citizens of Charleston voted to extend the city's credit, to the extent of $250,000, to the construction of the road.[58]

In Huntsville the citizens of Madison county and of the town "rebuked Robert Rhett and secession in one moment, and sustained a substantial subscription for the Memphis and Charleston Railroad in the next," voting 1,195 "for" and 726 "against" aiding the road.[59]

The funds to pay for the construction of the road were forthcoming from two sources; first, from the private and public subscriptions, and from the cities of Memphis, New Orleans, and Charleston; and, second,

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[53]*Engineer's Report,* January 15, 1851. Copy in Bureau of Railway Economics, Washington, D. C.

[54]These bonds were issued on condition that the company give a lien on the road, and comply with the conditions of locating the depot in Memphis (*Southern Advocate,* February 19, 1851).

[55]*The American Railroad Journal,* February 22, 1851.

[56]*Southern Advocate,* March 12, 1851.

[57]*The American Railroad Journal,* March 15, 1851.

[58]The city of Charleston refused to make this subscription until the Tennessee legislature would allow it to elect one director (*Southern Advocate,* January 29, 1852). This adjustment was made, and the city of Charleston was allowed to select one director (*The American Railroad Journal,* February 7, 1852).

[59]Memphis *Enquirer,* October 7, 1851.

from the sale of the state bonds of Tennessee.[60] Further aid was extended by the commissioners' courts of Madison and Marshall counties in Alabama at called sessions in June. The Madison county court subscribed $50,000, in addition to the $100,000 which the county had already subscribed. The Marshall county court unanimously subscribed $100,000 on the part of that county.[61]

Work was begun simultaneously on each end of the road. The first spike was driven on the west end of the road in Memphis on April 1, 1852; by April 1, 1853, the first forty miles of the road were completed and in operation. The fact that the company was in a position to put the west end of the road into operation almost immediately was a big factor in impressing the people with the importance of the project.[62] On the east end of the road the citizens of Huntsville were awakened on May 21, 1852, by the boisterous shouts of a long procession of Irishmen who were in the employ of "Mister" Grey and Company and who were on their way to break ground for the railroad.[63]

At the meeting of the board of directors in Memphis on February 19, 1853, much important business concerning the future of the road was transacted. A contract was issued to George Peabody and Company of London for 800 tons of iron at the rate of forty-five dollars per ton. The iron was purchased to lay the Somerville and Moscow branch, which had been accepted as a part of the Memphis and Charleston system.[64] The Somerville route was important to Memphis because it would connect that city with a rich cotton and slave belt. The counties tributary to the Somerville and Moscow branch owned 20,300 slaves, and were producing cotton in proportion.[65]

Despite the early construction of the east and west division, the Memphis and Charleston Company experienced extreme difficulties

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[60]This state aid was provided for in an act entitled: "An Act to Establish a System of Internal Improvements in This State." It provided that when certain railroad companies, of which the Memphis and Charleston was one, had prepared thirty miles of roadbed for the rails the governor of the state was to be instructed to deliver the state's six per cent bonds to the extent of $8,000 per mile, for each mile of road in readiness for iron. This money was to be used only in the purchase of rails, chairs, spikes, and other road equipment. The state was to be given a mortgage on the right-of-way, masonry, bridges, subscribed stock, and materials purchased and delivered (*Laws of Tennessee,* 1851-1852, chapter 151, p. 204).

[61]*The Daily Appeal,* May 21, 1852.

[62]*Ibid.,* May 21, 1852.

[63]*The Southern Advocate,* May 26, 1852.

[64]Mobile *Daily Advertiser,* March 18, 1853.

[65]Memphis *Daily Appeal,* November 15, 1853.

when an attempt was made to build westward from Tuscumbia.[66] In 1854 iron and labor prices went up; labor which had cost $100 per year went up to $175, and iron prices advanced to more than fifty dollars per ton.[67]

In 1854 the internal improvements laws of Tennessee were amended so as to allow the governor to lend $10,000 per mile to the railroad companies for each mile of roadbed prepared for the iron. Aside from the increase in the amount allowed by the state for ironing the road, generous provisions were made for use in building bridges over the larger streams. The original requirements that "twenty miles" of the road be prepared for the rails was amended to read "ten miles" instead.[68] The Memphis and Charleston Company took advantage of this offer of state aid, thinking at the time that only the main line was entitled to assistance. In 1856, however, an act was passed by the state legislature entitling the Somerville and Moscow branch to state aid, which assisted materially in its completion.[69]

The completion of the road was only a matter of time after 1854. Plans were made to avoid cutting through Walden Ridge by connecting with the Nashville and Chattanooga Railroad at Stevenson, Alabama. The Nashville and Chattanooga tracks were used jointly from this place on into the city. The Tennessee legislature sanctioned that decision.[70] It is interesting to note that at the time the two companies agreed to cooperate there was no rivalry between the two roads. "Lean Jimmy" Jones, perhaps, was the biggest factor in maintaining peaceful relations between the companies. Too, the freight of the two roads was gathered from sources far removed.[71]

The legislature of Alabama in the past had shown a tendency to aid projects of internal improvements by state aid. As the Memphis and Charleston Company was in need of some ready funds, a delegation composed of C. C. Clay, L. P. Walker, G. B. Berine, and Sam Tate was sent to Montgomery to request the legislature to grant the company state aid. The request was made in an impressive manner. The committee

[66]"Scizzors," in his letter of December 10, 1854, said "the western end of the Memphis and Charleston Railroad, fifty miles to LaGrange in the southeast corner of Fayette County has been doing a smashing business this season. The results are wonderful and surprise the most sanguine friends of the enterprise. Where all the freight comes from, and where the crowds of passengers come from and whither bound puzzles every one. It is shrewdly suspected that the railroad makes them and keeps them going hither and thither as a means of illustrating the creative genius of the railroad" (Memphis *Daily Appeal*, January 1, 1854).

[67]*Annual Report*, April 1, 1854. Copy in Bureau of Railway Economics, Washington, D. C.

[68]*Laws of Tennessee*, February 8, 1854, chapter 131, p. 205.

[69]*Ibid.*, February 18, 1856.

[70]*Ibid.*, February 23, 1854, chapter 113, p. 699; *Laws of Alabama*, February 7, 1856, No. 302, p. 298.

[71]Huntsville *Advocate*, November 21, 1855.

visited Governor John Winston, whom it assured that the Memphis and Charleston Company was in a position to offer four times as much security as it was asking aid. Governor Winston dismissed the committee after having given it the impression that he was favorably disposed toward the loan. A bill was put through both houses of the legislature granting state aid to the railroad company to the extent of $300,000,[72] but to the astonishment of the friends of the road the governor vetoed the bill.[73] The bill was returned to the legislature and was passed over the governor's veto by a majority of one vote. The governor, not to be outdone, however, absolutely refused to allow the treasurer to pay over the $300,000 prescribed by the legislative act.[74] In the meantime, the railroad company had sold $250,000 worth of its bonds in the city of Charleston[75] and had managed to keep construction work going without the Alabama loan.[76]

Construction work was pushed through at a very rapid rate. Had it not been for the misfortune of having the bridge over the Tennessee River burn, through operation would have been possible at a much earlier date. Only about sixty miles of the whole road were in an unfinished condition, and iron for this unfinished portion was being hauled up from Charleston.[77] Twenty-nine more miles between Tuscumbia and Stevenson were placed in operation on March 10, 1856, making in all eighty-eight miles in operation on the eastern end of the road. During the year 1856, the eastern end of the road earned over $250,000.[78] On the western end the completion of the road was taking place rapidly. The citizens of Corinth, Mississippi, near the place where the road entered Alabama from Mississippi, extended an invitation to the citizens of Memphis to attend a barbecue which the city was giving in honor of the completion of the road to that point.[79]

At last the two ends of the road were brought together, and on March 28, 1857, the final rail was swung into place and all the spikes except the last one were driven down. It was "Lean Jimmy" Jones who had driven the first spike, and it was "Lean Jimmy" who drove the last one. Jones was forced to content himself with a very short address. As Ten-

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[72]The Memphis and Charleston Company was to be loaned $300,000 on the company's furnishing a sufficient amount of security to be made payable in the city of New York, or elsewhere, as the governor might stipulate. The railroad company was to hypothecate not less than $500,000 of its bonds (*Laws of Alabama*, 1855, No. 20, p. 13).

[73]Memphis *Morning Bulletin*, January 16, 1856.

[74]*Ibid.*, January 20, 1856.

[75]The governor repudiated the proposed loan on the ground that the people of the state of Alabama were opposed to it (Mobile *Daily Advertiser*, January 20, 1856).

[76]Memphis *Morning Bulletin*, March 13, 1856.

[77]Charleston *Courier*, January 28, 1856.

[78]Memphis *Morning Bulletin*, March 12, 1856.

[79]*Ibid.*, November 25, 1856.

nessee had enjoyed the privilege of driving the final spike, Alabama was granted the privilege of making the first major address on the occasion.[80]

Immediately following the completion of the road, plans were made for a gigantic celebration of the achievement. On April 28, 1857, all roads leading to Memphis were thronged with revelers who were on their way to see the Atlantic formally wedded to the Mississippi. A special through train was run from Charleston to Memphis, carrying on board the mayor, the common council, and the Phoenix Fire Company of Charleston, and the fire company of Augusta, Georgia, besides numerous excursionists.[81] Newspaper men and politicians from almost every section of the South were present.[82] There were no less than 10,000 visitors. O. H. Douglas, mayor of Memphis, was made president of the celebration, and all visiting notables, such as governors, mayors, and railroad presidents, were made honorary vice presidents. As the day wore on speeches became more numerous, in fact, too numerous. The Memphis schools and academies put on special exhibits in the morning.

At high noon the crowd gathered at the river front to witness the marriage ceremony between the "Old Ocean" and the "King of Floods." The editor of the *Morning Bulletin,* in an excited mood of editorial eloquence, said of the assemblage on the river bluff: "It was a beautiful spectacle when the throng repaired to the river, to see our rude bluffs garlanded with such an array of female loveliness." But to the dismay of the "female loveliness"[83] assembled at the bluffs no signs of the anticipated ceremony appeared. The crowd prepared to leave just as the belated firemen put in their appearance. They had been detained in Court Square, where they had been regaled with speeches by the mayor of Charleston and by some of the lesser lights among the visitors who had not been given an opportunity to speak earlier in the day. The firemen pushed their cart, "Old Betsy," down to the water's edge and there emptied the barrel of ocean water into the tank of their cart. The mayors of Charleston and Memphis marched down on the right hand side of the hose, while the firemen and their paid orator marched down on the left hand side. Reaching the end of the hose, the procession came to a halt, and Mayor Niles of Charleston extended his ring finger and received from Mayor Douglas of Memphis the ring of bethrothal, Mayor Douglas exclaiming: "What these great people hath joined together let nothing put asunder." Mr. Boyce, the firemen's paid orator, then delivered the address of the occasion. Following this speech, the firemen pumped the salt water of the Atlantic into the air, allowing it to fall as

[80] *Ibid.,* March 29, 1857.
[81] *Ibid.,* April 28, 1857.
[82] *Ibid.,* May 2, 1857.
[83] *Ibid.,* May 3, 1857.

spray into the river.[84] Thus the ceremony passed off without a hitch, and left everybody happy, except one irate clergyman who took the Charleston visitors to task for desecrating the Sabbath by riding on the trains upon returning to their homes.[85]

[84]John M. Keating, *History of Memphis* (Syracuse, 1899), 338.
[85]Memphis *Morning Bulletin,* May 19, 1857.

STEPHEN HOLSTON AND HOLSTON RIVER*

By SAMUEL C. WILLIAMS

THE MAN

Strangely enough, no Tennessean has written in anything like an adequate way of Stephen Holston, whose name is perpetuated for all time in that of a noble river, having three large branches: the North Fork, the Middle Fork, and the South Fork, all their waters commingling at Kingsport, Sullivan county, Tennessee. Haywood gives a very brief account,[1] which is not wholly accurate, and Ramsey, who lived on the bank of the Holston River, gives only a three line note, without mentioning Holston's full name.[2] Phelan does not even mention his name. Is this a fair measure of the man's deserts?

Stephen Holston, of Scandinavian derivation, migrated into the western part of Virginia from Pennsylvania, where the names Holston and Stephen Holston are to be found in lists of settlers in that province,[3] from which, as is well known, there was a strong current of migration into the Valley of Virginia about 1730 to 1745.

The chain of sequence which brought Holston as a young man into the valley which bears his name appears to be traceable from Draper's manuscript Life of Daniel Boone[4] in the Draper Collection at Madison, Wisconsin.

James Patton, of Augusta county, Virginia, claimed to have been the first English subject who discovered the waters of two rivers south and west of New River prior to 1743. He petitioned the government of Virginia for 200,000 acres in the year 1743—the first applicant for grants on the waters of what is now known as Holston's River. The petition was not granted, as it was thought the government in London would not approve it, fearing that it might occasion some dispute with France, which power was claiming all the trans-Alleghany territory. Patton's petition was entered of record on the books of the council of state of the province, with the promise to him that he would be informed whenever his wishes could be acceded to. Accordingly, in April, 1745, notice was

*Read before the Society at a meeting in Knoxville on December 6, 1935.

[1]John Haywood, *The Civil and Political History of the State of Tennessee* (Knoxville, 1823), 42.

[2]J. G. M. Ramsey, *The Annals of Tennessee* (Charleston, 1853), 49.

[3]Sherman Day, *Historical Collections of Pennsylvania* (Philadelphia, 1843), 485-486.

[4]*Ibid.*, 122. This furnished the base for Thwaites' *Life of Boone.*

sent to Patton to attend the council, which proceeded to grant him (1745) not the full 200,000 acres asked for, but 100,000 acres by way of open patent to be laid on lands "on the waters of New River and on the two rivers to the westward."[5]

On October 10, 1746, Patton and his associates gave notice to the public that they would sell lands to actual settlers at the rate of four pounds, five shillings, in current money, for every one hundred acres; and Peter Renfro[6] was appointed entry-taker.

Stephen Holston manifestly went into the region about or previous to 1746, and he may have been in the employ of Patton.

Holston built his cabin[7] at the headspring of the Middle Fork, just across the divide of the waters from those of New River. It was about nine miles east of the site later chosen by Samuel Stalnaker for his own clearing and cabin home.

In 1748, Dr. Thomas Walker accompanied Patton, Buchanan, and others on a journey into the Holston Valley and entered the Tennessee country (Sullivan county)[8] on what was then called Indian River—doubtless because it flowed towards and into the Cherokee country to the southwest.

Patton and his son-in-law, John Buchanan, did the surveying for grants. In 1746 (the first on March 14) there were three of these surveyed on Indian River or one of its branches. The following year two grants were laid, and in 1748 six were surveyed on Indian River, by name. However, on March 26, 1747, a tract was surveyed for James Wood on *Holston Creek,* so-called doubtless after the custom of naming a creek for the man first to settle on it.

The earliest grant on *Holston River,* by name, was surveyed on March 14, 1748, for Charles St. Clair, 996 acres.[9]

From what precedes it is fairly inferable that Stephen Holston was, as stated, on the upper waters of Indian River as early as 1746. He had an occupant claim (corn or cabin rights) to a tract of land on the head branch of the stream's Middle Fork, which tract he sold to James Davis,

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[5]As to the invalidity of the claim, see below.

[6]The name of Renfro appears in later records of Tennessee. "The Indians killed old Peter Renfro" at French Lick, 1782 (Ramsey, *op. cit.,* 455).

[7]The cabin stood on the hillside about thirty rods from the spring; no level land around it. The site should be appropriately marked. See "John Redd's Reminiscences," in *The Virginia Magazine of History and Biography,* VI (1898-1899), 337-338.

[8]The first grant, under Patton's patent, in the Tennessee region was surveyed February 22, 1749, for John Taylor on the waters of Indian River (Beaver Creek), the tract receiving the name of "Sapling Grove" (site of Bristol), later owned by Evan Shelby (Samuel C. Williams, "Shelby's Fort," in The East Tennessee Historical Society's *Publications,* No. 7 [1935], 29).

[9]The second survey was of a tract for the Virginia statesman and jurist, Edmund Pendleton, east of and near the site of Kingsport (S. C. Williams [ed.], *Early Travels in the Tennessee Country, 1540-1800* [Johnson City, 1928], 106 *et seq.*).

who gave it the name "Davis' Fancy." The grant therefor issued to Davis on March 19, 1748. Thwaites, in his notes to Withers' *Chronicles of Border Warfare,* page 59, says that Holston prior to 1748 while on a hunt discovered the river, though the word "discovered" is inaptly used, since it is certain that traders had years before passed down the stream in going to the towns of the Overhill Cherokees.[10]

Shortly after selling out to Davis, Holston and some of his neighbors determined to explore the lower reaches of the river. They constructed canoes and passed downstream into the Tennessee, Ohio, and Mississippi as far as Natchez. This adventure led to the Indian River's receiving the name of the daring Holston.[11]

It is believed that it was so dubbed by Dr. Thomas Walker, who had a penchant for naming rivers, mountains, and gaps.[12]

If the naming, as above, of a creek, tributary of the stream, in 1747 (and of the river itself in 1748), be excepted, the first designation of the river as "Holston's River" was by Dr. Walker, in his journal of 1750:

> March 23, 1750. We kept down Holston's River about four miles and camped; and then Mr. [Ambrose] Powell[13] and I went to look for Samuel Stalnaker who, I had been informed, was just moving out to settle. We found his Camp, and returned to our own in the evening.
>
> 24th. We went to Stalnaker's, helped him to raise his house and Camped about a quarter of a mile below him. In April, 1748, I met the above mentioned Stalnaker between the Reedy Creek Settlement and Holston River on his way to the Cherokee Indians, ...[14]

It is probable that Dr. Walker learned of the exploit of Holston on one of his visits, in 1748 and 1750, and thought the adventurer worthy of having his name firmly fixed to the graceful and beautiful stream.

The name of Holston was soon to find its way on maps. In surveying the boundary line between the provinces of Virginia and North Carolina in 1749 westward ninety-four miles, Peter Jefferson, father of President Jefferson, and Joshua Fry stopped the line at Steep Rock Creek west of the Alleghanies—Laurel Fork of this day, in Johnson county, Tennessee. In their map of 1751[15] Jefferson and Fry recorded Steep Rock Creek as flowing into Tooley's River, a branch of "Holston's River." Tooley's River, or Creek, is now known as Laurel Fork of South Fork of Holston. Walker, Jefferson, and Fry were all residents of Albemarle county, Vir-

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[10]"A Mr. Vaughan" being one of these as early as 1740 (Haywood, *op. cit.,* 27). Samuel Stalnaker was also a trader to the Cherokees in the same decade, and Cornelius Doherty had preceded both, all going down the Holston Valley.

[11]Reuben G. Thwaites (ed.), *Wither's Chronicles of Border Warfare* (Cincinnati, 1895), 59.

[12]Notably, he gave the name of "Cumberland" to the river, mountains, and gap that bear that name to this day. Walker's Mountain in Southwest Virginia received his own name.

[13]Ancestor of the Confederate general, Ambrose Powell Hill.

[14]Williams, *op. cit.,* 167.

[15]Revised by Dalrymple in 1755, and appearing in Justin Winsor, *The Mississippi Basin* (Boston, 1895), 231, detail at p. 169.

ginia; and in drafting their map the surveyors received aid from Walker and named the stream "Holston's River."[16]

On the return of Holston and his party from the Natchez region, the restless spirit of Holston or rumor of an Indian foray led him to remove with his family to Saluda Old Town on the Little Saluda in upper South Carolina. There he found that he had not escaped trouble from the redmen. In the summer of 1753, a party of Cherokees, returning from a visit to Governor James Glen at Charles Town, in Holston's absence raided his premises and stole his horses. Holston set forth his grievance in a petition to Governor Glen, as follows:

> The petition of Stephen Holston Humbly setting forth that your Petitioner Lives and Resides with his Family on Little Saluda River and being about the beginning of August Last absent from his House about some Private affairs above 40 Cherokee Indians who had come from Charles Town and confirmed a peace with the Creeks, on their return to their nation they surrounded the Petitioners House and Demanded Provisions; the Petitioner's wife did accordingly give them vituals and what ever else she could afford that they wanted, but not contented with that two of them came in and desired to sleep upon the floor, for which permission was given them; at the same time it being now Dark the Petitioners wife retired to her bed chamber and two other white men servants to their room, but no sooner had they been asleep till the said Cherokee Indians Broke open both the Doors and came forseably into the petitioners house and one of them armed with a Gun endeavored to forse open the Door of the Room where the Petitioners wife lay; she Looking throw a hole asked him what he wanted and seeing all of them armed, to save Her Life Jumped out of the window with a young Infant in her arms and went throw the woods three miles to a neighbors house where she took shelter that night and in the morning returning to her house she found that the said Cherokee Indians had robbed her of the Chief part of her Peuther Plates and Dishes and also her Tea Cups and Kettal and took about 30 Bushels of Corn along with them and Likewise a mare belonging to the Petitioner and also another mare the Property of his mother in Law which they took with them and carried away. Your Petitioner therefore most humbly Begs Your Excellency and Honours to procure Restitution of the Damage sustained by these Cherokees and at the same time punishment for the violence and outrage committed as to your Excellency and Honours known wisdom shall seem meet and your Petitioner as in Duty bound shall ever pray.
>
> STEPHEN HOLSTEN [*sic*],
>
> Chas Town, the 4th of Sept, 1753.[17]

[16]It is interesting to speculate why the boundary line was stopped at a creek and not extended westward to the South Fork of Holston. Walker, Jefferson, and Fry were interested in the Loyal Land Company, which in the early part of 1749 had authority to enter and survey 800,000 acres of Virginia's public domain under an open patent, and they had their eyes on the rich lands on the branches, South and Middle, of Holston River. Dr. Walker is said to have maintained at the time a lodge, or temporary residence, at Wolf Hills (Abingdon, Virginia), which he named (Lewis Preston Summers, *History of Southwest Virginia* [Richmond, 1903]; Archibald Henderson, *Dr. Thomas Walker and the Loyal Company* [Worcester, 1931], 12). Rich lands, to the west, along the Holston were surveyed six months after the survey of the colonial line was stopped. Could word have been sent by Walker to Jefferson and Fry that such stoppage was advisable? Or did they, themselves, sense the situation? Whatever may have been the motive, the North Carolina commissioners evidently thought that it was the advance of the season that ended their labors (William L. Saunders [ed.]), *The Colonial Records of North Carolina* [Raleigh, 1886-1890], IV, 1073-1074).

[17]Found in Indian Book, III, 333, Archives at Columbia, S. C.

About the time of the breaking out of the Indian troubles of 1754, Holston removed to Culpeper county, Virginia, where again he was not free from the Indians. In 1757 he was captured by them, but making his escape he returned to the waters of the Holston in the bounds of Botetourt county, Virginia. He saw service in the battle of Point Pleasant on the Ohio in October, 1774, as a member of the company of Captain Henry Pauling of Botetourt.[18] Though somewhat advanced in years, he was in Colonel William Christian's campaign of 1776 against the Cherokees and crossed the river he had navigated so many years before over Long Island (Kingsport, Tennessee).

In January, 1781, Holston was captain of a company in Revolutionary service. In lower Virginia at that time Lord Cornwallis was endeavoring to retake prisoners captured by the American forces at the Cowpens, and a requisition was made on the troops from Botetourt county for defensive action. Captain Holston's company was one of those ordered out against the British, each of his men being ordered to provide himself with a horse and six days' provisions. Later the detachment, under Major Thomas Rowland, crossed Dan River and joined General Nathanael Greene at Haw River in North Carolina.[19]

It seems fairly certain that Holston was at the battle at Guilford Courthouse, March 15, 1781, as one of the 2253 Virginians who participated, and that he served in Colonel William Campbell's corps.[20] He resigned as captain in May, 1782, probably because of his old age.[21] Thus in the evening of life Holston vindicated the honor that had been done him in the naming of the river.

Descendants of Stephen Holston appear to have settled in eastern Louisiana at about the end of the eighteenth or the beginning of the nineteenth century. The strain of the Viking in their blood urged them, as it had their ancestor, to brave the hazards of the water journey southward in quest of new homes. They settled on the Island of Sicily—an inland island formed by interlocking rivers and a lake—, a short distance westward of Natchez.[22]

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[18]R. G. Thwaites and L. P. Kellogg (eds.), *Documentary History of Dunmore's War* (Madison, Wis., 1905), 411; V. A. Lewis, *Battle of Point Pleasant* (Charleston, W. Va., 1909), 116. See, also, H. J. Eckenrode, *Colonial Soldiers of Virginia* (Richmond, 1917), 49.

[19]J. T. McAllister, *Virginia Militia in the Revolutionary War* (Hot Springs, Va., 1913), 123, 191.

[20]David Schenck, *North Carolina, 1780-81* (Raleigh, 1889), *passim.* Maj. Rowland was appointed to serve under Col. Wm. Campbell (*Calendar of Virginia and Preston Papers,* 137); and Rowland had command of the Botetourt companies.

[21]Lewis Preston Summers, *Annals of Southwest Virginia* (Abingdon, 1929), 357.

[22]It was on this island that the Natchez Indians made their last stand against the French of Louisiana in 1732. The island is an elevated table land, and attractive from an agricultural standpoint, being ten feet above the flood water of the nearby Mississippi.

Claiborne in his *Mississippi,* page 53, incorporates this account:

> At the time of the surrender of the Spanish government at Natchez to that of the United States there was a large American population already settled and living upon this island. This pioneer community was composed of gentlemen of respectability, easy fortunes and cultivated tastes and manners. They were the Holsteins and Lovelaces[23] from Virginia, the Kirklands from South Carolina and the Leightnors from one of the New England States. They came here with many negroes, and large grants of land from Governor Gayoso. The descendants of these people are still here [1857] occupying the places their fathers died on, and own nearly the whole of the landed property of the Island. The manner of immigration hither was over the mountains to the head waters of the Ohio [the Holston],[24] and down the Mississippi, in the ancient broadhorn to the Natchez country.

Summers is authority for the statement that "many of Stephen Holston's descendants are to be found in East Tennessee at this time [1903]."[25] According to descendants, Holston removed to the Tennessee country, and if this be correct, it is fairly inferable that he settled at first in Sullivan county among the relatives of his wife, who was Lucy Jane Looney, perhaps daughter of Peter Looney. David and Moses Looney were leaders in the public affairs of that county in the 1780's.[26] According to family tradition, Holston removed farther down the valley and made his last home on Holston River in the present county of Grainger.

THE RIVER

Haywood states that the Indians called the river "Cootcla;" and elsewhere says[27] that it was known to the Cherokees by the name of "Watauga." Ramsey says that from the Little Tennessee to the French Broad the river was called by the aborigines "Cootcla," and above "Hogohegee."[28] Confirmation of none of these seemingly contradictory statements has been found after considerable research.

Variants in the spelling of the name have been: Holston, Holstein, Holstown, and Houlstown. The first named is the form that has been used by the family in Pennsylvania.[29]

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[23]There was a Loveless (Lovelace) family in Washington county, Virginia, as early as 1777.

[24]A researcher into the history of Tennessee, or of the Tennessee River, can but be struck by the comparatively frequent use of the Holston and Tennessee rivers by emigrants on their way to the Natchez region.

[25]Summers, *History of Southwest Virginia,* 53.

[26]For sketches of David and Moses Looney, see Samuel Cole Williams, *History of the Lost State of Franklin* (rev. ed., New York, 1933), 332. Descendants of Stephen Holston yet live in Sullivan county, Tennessee.

[27]*Op. cit.* (March ed.), 39, 42.

[28]*Op. cit.,* 87.

[29]Anna M. Holstein, *Swedish Holsteins in America* (Norristown, Pa., 1892), *passim.* As appears above the sole extant document signed by Holston is in the form "Holsten"; and the Louisiana descendants are called "Holsteins". See, also, John W. Jordan (ed.), *Colonial Families of Philadelphia* (New York and Chicago, 1911), II, 1186.

The term "Holston River" was soon known and used in the provinces of Virginia and North Carolina. Governor Robert Dinwiddie, of Virginia, as early as August 2, 1754, wrote of "Long Island of Holston River."[30] A diarist of the Moravians in North Carolina noted, July 22, 1755: "A Dunkard just come from New River told us that some ten weeks ago a man named Stahlnekker [Stalnaker], living on Holston River, had been captured by the Indians and his entire family murdered."[31] It was "Holston's River" that Henry Timberlake and Thomas Sumter, the Revolutionary general-to-be, navigated in canoes in 1761, the former, for the first time in the river's history, charting its course for two hundred and fifty miles to the Little Tennessee.[32]

Dr. John Mitchell, who for many years had lived in Virginia, wrote about 1755 a paper for the Royal Society of Great Britain, of which he was a member, in which paper he said of English settlements on the western waters: "Not only are we well settled on Wood [New] River, but likewise on Holston River."[33]

On Popple's map of 1733 the Tennessee throughout (to its upper reaches) is named "Hogohegee, Callamaco or Acanseapi," but he locates a village of the Cherokees, "Watoga," as the farthest one up the stream. Haywood evidently took this to refer to a stream flowing above "Satico R." [the Little Tennessee] into the main river.

On the map inserted in the Charlevoix work on New France (1744) the entire stream above the junction of the "R Pelesipi scion les Anglois" [Clinch River] is "R. Hogohegee scion les Anglois."

Jefferson and Fry, as seen, in their map of Virginia (1751) gave to the stream the name "Holston's River."[34] Lewis Evan's map of 1755 follows this map as to Virginia and embodies information obtained from Dr. Thomas Walker.

The map of John Mitchell (1755) gives to the river above the junction of the "Tannassee or Satico" the name "Hogohegee or Callamaco" and to the same stream farther to the northeast "Holston R. settled," with "Reedy Cr." flowing into it. A legend placed on the map states: "All these places are laid down from the Draughts of the Surveyors," referring to Jefferson and Fry in their survey (of 1749) of the line to Steep Rock Creek. Mitchell places "Watauga Old Town" at the mouth

[30]Robert Dinwiddie to Richard Pearis, August 2, 1754, in R. A. Brock (ed.), *The Official Records of Robert Dinwiddie, Lieutenant-Governor of the Colony of Virginia, 1751-1758* [*Collections* of the Virginia Historical Society, New Series, III] (Richmond, 1883), I, 266.

[31]Adelaide L. Fries (ed.), *Records of the Moravians in North Carolina* (Raleigh, 1922), I, 133.

[32]Samuel Cole Williams (ed.), *The Memoirs of Lieut. Henry Timberlake, 1756-1765* (Johnson City, 1927), *passim.*

[33]Berthold Fernow, *The Ohio Valley in Colonial Days* (Albany, 1890), 230-240.

[34]See map, as revised by Dalrymple, in Winsor, *op. cit.*, 231.

of our Little River, or possibly Pigeon River, which he gives as "Watago River."

The map of Emanuel Bowen in *The Gentleman's Magazine,* of London, July, 1754,[35] purported to give "all the back settlements in the respective Provinces, as far as the Mississippi" and placed the name "Holston River" at the proper position. It also places at or near the mouth of a small stream entering the main river a village, "Vatoga" [*sic*], plainly marked as a village.

Strangely enough, a French map (Covens et Motier, 1758) gives to the river the name of "Hudson," evidently an error in the transcription of "Holston" from the map of Jefferson and Fry, since it has "Toley's River" flowing into it from the east as had Jefferson and Fry's. Reedy Creek, emptying at Kingsport, is "Cr. Rouge." This French map follows Mitchell in placing "Watogo" as a village at the same location.

Sayer and Jeffery's reproduction and revision of D'Anville's map, of the same period, gives "Holston R." with the village of "Vatogo," as above. However, they place an Indian village at what appears to be the junction of the Holston and the Watauga of our day. No name is assigned to it.

Unusually informative is the manuscript draft of the map of 1764 by Superintendent John Stuart, found in the British Museum.[36] On it appears: "Holstein's R., navigable in canoes into Virginia."[37]

Thus did cartographers give prompt recognition to Stephen Holston. The name has been perpetuated on later maps, marking the river as such southwestwardly to the mouth of the Little Tennessee, which was for many years deemed to be a part of the Tennessee. Our earliest Tennessee geographer, General Daniel Smith, so delineated the streams.

By an act of the Tennessee legislature the name of the river between the mouths of Little Tennessee and French Broad was changed to make that portion a part of the Tennessee, leaving the Holston unchanged above the latter point; this, to take advantage of acts of Congress making appropriations for the improvement of the Tennessee River. Since then both the federal and state governments have so treated the river in official reports and maps issued.[38]

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[35]Vol. XXIV.

[36]"Map of Southern Indian District." British Museum, Additional MSS. 14036e CC., Series II, Vol. III, pp. 34-35.

[37]This map should be procured, in photostat, by at least one of the historical societies of Tennessee. It shows "the road by which Mr. Stuart escaped to Virginia in 1760," which passed the Long Island of Holston. Our French Broad appears as "Broad". The Clinch seems to be "Amieaguskee or Enemy's River." A small stream (Little River) is called "14 Mile River." The Cherokee towns are placed, named, etc. Almost the equivalent of this map was later (1775) printed, "John Stuart fecit."

[38]Some early grants were laid in the fork of the Holston and French Broad and their boundaries called for the Holston *or* Tennessee River (Goodwin *v.* Thompson, 15 Lea [83 Tenn.], 210).

The General Assembly of Tennessee sought to go further. It enacted that in order "to settle all doubts and disputes as to the name . . . of the Tennessee River . . . the Tennessee extends from its junction with the Ohio . . . to the junction of the north fork of the Holston River with [the] Holston, at Kingsport . . ., all usages to the contrary notwithstanding."[39] The act was *brutum fulmen.* There never had been any such doubt or dispute; nor has there been any since the legislative *fiat* "to the contrary notwithstanding." The officials of both the state and federal governments continue to name the stream above the French Broad "Holston River," and, doubtless, numerous instances might be cited of like recognition by the legislature of Tennessee, itself, since 1889.

The name of Stephen Holston is further perpetuated in Holston Mountain, at the base of which flows the South Fork of the river. This is a long mountain, which reaches the maximum height of 4350 feet above sea level. It is most beautifully proportioned; it stands out from the main chain of the Alleghanies and is generally remarked for its symmetry.[40]

Not only so: throughout the South the country in the drainage area of the river for generations has been called "the Holston Country," and the word Holston is the name of annual conferences of the two leading Methodisms, while the Presbyterians and the Baptists have adopted it in naming governing bodies of those churches. There could scarcely be a firmer anchorage of the name of Stephen Holston, albeit few know anything of the man himself or even that the river was named in his honor.

[39] *Acts of Tennessee,* 1889, ch. 236, pp. 457-458.

[40] The highway from Bristol to Mountain City, Tennessee, goes over the mountain and is heavily travelled.

CHEROKEE-AMERICAN RELATIONS IN THE UPPER TENNESSEE VALLEY 1776-1791

By RANDOLPH C. DOWNES

The outbreak of the Revolutionary War was viewed as a godsend by the leading warriors of the Cherokee nation. It seemed to give them an opportunity to correct the mistake they had made in the years from 1769 to 1775 in permitting, contrary to British advice, the white people to destroy their hunting by settling in the valleys of the Watauga and Nollichucky. Believing that the English king would crush the revolt with irresistible power, the warriors accepted the Watauga challenge and, to the great dismay of the British Indian agents, plunged the upper Tennessee frontier into a racial conflict that purged it at once of all Tories and resulted in an overwhelming defeat of the tribesmen on three frontiers. Horseless warriors unsupported by sufficient British arms were no match for the frontiersmen.[1]

This defeat was the first step in the destruction of the Cherokee nation by the United States. The Cherokee had precipitated a bloody war and had lost. They must now make reparation in the forfeiture of some of their lands. The forfeiture took place formally at the treaty of Long Island of July 2, 1777. The boundary line there agreed upon had its southern extent far enough down the Nollichucky to include all the land previously settled by the whites. The Cherokee, of course, did their best to defend their claims by appealing to the sense of justice of the commissioners from Virginia and North Carolina. Through their spokesmen, the Raven and Oconostota, the Indians claimed that their acquiescence in the white occupation of the lands before 1776 was an involuntary one and that the settlers should have removed when the Indians showed dissatisfaction with their presence. The North Carolina commissioner, Waightstill Avery, denied this, saying that the Indians had, at several treaties,

[1]This story is well told by Philip M. Hamer in three of his publications: "The Wataugans and the Cherokee Indians in 1776," in The East Tennessee Historical Society's *Publications*, No. 3 (1931), 108-126; "John Stuart's Indian Policy During the Early Months of the American Revolution," in *The Mississippi Valley Historical Review*, XVII (1930-1931), 351-366; "Correspondence of Henry Stuart and Alexander Cameron with the Wataugans," in *ibid.*, 451-459. See also John Haywood, *The Civil and Political History of the State of Tennessee* (Knoxville, 1823), 45-49; and J. G. M. Ramsey, *The Annals of Tennessee* (Philadelphia, 1853), 147-169.

including that at Sycamore Shoals in March, 1775, permitted and sanctioned the settlement of the Wataugans, who could not therefore be blamed for not leaving when the Indians suddenly desired them to remove.

> In the time of peace, [he said,] they [the settlers] were not driven away nor moved off, nor were they taken under protection by the governor of North Carolina. They were let alone, no officers were appointed to preside on seats of justice there. The Indians made no request to the governor and council [of North Carolina] to have them removed .... [When the Indians attacked them] they were taken under the protection of North Carolina, and were supplied with money ammunition, salt, &c. They were received and taken in as a part of our people. . . . Before the war their power was restrained and kept back beyond the line fixed . . . but now you have been the cause of bringing it to Watauga and Nolichucky; and now our courts must be established here.[2]

The Cherokee had been negligent and must therefore pay the price.

But the fate of the Cherokee was not yet sealed. The British could still rescue them from the avarice of the Americans. The treaty of Long Island was not a voluntary one on the part of the Indians. The chiefs that had attended did so because, as Colonel Isaac Shelby wrote to Joseph Martin on June 20, 1777, they were "greatly distressed at home for provisions."[3] Many Cherokee had stayed away, believing that the great British king, although temporarily checked, would still be able to put down the rebellion. These dissenting warriors listened to one of their leaders, Hanging Maw, who had declared in December, 1776, to Robert Dews, that "he well knew the King had more men than the rogues" and that any talk the rest of the warriors had with the Revolutionists "was only a make-haste to save their corn."[4] These men, led by Hanging Maw and Dragging Canoe, were in touch with John Stuart and Alexander Cameron of the British Indian department and believed what they were told. They did not attend the treaty of Long Island and were indeed responsible for the harassing of the frontiers by Cherokee both before and after the treaty.[5]

The Americans were at a further disadvantage in being unable to pay for Cherokee friendship. They had promised to do this at the treaty of Long Island, but the promise could not be kept. From 1777 to 1779 Virginia made a feeble effort to supply them,[6] but the cattle and munitions that were sent were far from sufficient. After almost two years of

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[2]Haywood, *op. cit.*, 494-495. Long Island was in the Holston River at the site of the present Kingsport, Tennessee.

[3]Draper Mss., 1 XX 23 (in Library of the State Historical Society of Wisconsin, Madison).

[4]Walter Clark (ed.), *The State Records of North Carolina* (Goldsboro, 1907), XXII, 998.

[5]James Thompson to Joseph Martin, March 1, 1777; Anthony Bledsoe to Joseph Martin, April 8, 1777; Evan Shelby to Joseph Martin, April 4, 1777, Draper Mss., 1 XX 15, 21, 27.

[6]Louise Phelps Kellogg (ed.), *Frontier Advance on the Upper Ohio 1778-1779* [State Historical Society of Wisconsin *Collections*, XVIII (1916), *Draper Series*, IV] (Madison, 1916), 105, 182.

Virginia "aid," Hanging Maw, at a council at Long Island in May, 1779, said, "We are in want of Ammunition, Paint & other necessary Goods . . . what goods we have had from you is not half sufficient . . . we have no other dependence." North Carolina had been a complete failure in this respect. Hanging Maw said, "We formerly look'd to [South] Carolina for supplies of Goods but at this time cannot look that way as there appears a Cloud to hang that way."[7] After the Cherokee had rejoined the British, Governor Thomas Jefferson of Virginia described the situation quite fairly when he wrote to Washington on February 17, 1781, "Their distress had too much ripened their alienation from us, and gathered to a head."[8]

Hence, when the fortunes of war in the South turned in favor of the British in 1779 and 1780, the Cherokee felt it wise again to take the field against the Americans. Savannah was occupied by the British in the last days of 1778 and soon thereafter Augusta fell. This opened the whole Cherokee country to British goods by way of the Savannah River. The significance of the control of Augusta was clearly described by Arthur Campbell, who informed Governor Jefferson on April 25, 1781, that he had "no hopes the Cherokee will sue for peace, as long as Augusta Georgia is in the hands of the British, who promise them all the supplies they need."[9] Treaties were held by the British and the Cherokee were promised the return of their lost hunting grounds. Thus Colonel William Campbell reported to Colonel William Preston on December 12, 1780, "In the Treaty held there [Georgia] this Country was given to that tribe [the Cherokee], if they would conquer it."[10]

The Cherokee decision was made in the fall of 1780 as the victorious British swept northward into North Carolina. Joseph Martin, Virginia agent to the Cherokee, learned of the decision early in December and fleeing American traders spread the information. Upon Martin's advice, Jefferson decided to strike first and to seek the aid of North Carolina in so doing. Colonel John Sevier, fresh from his victory at King's Mountain, was given the command of the North Carolina-Watauga frontiersmen, and Colonel Arthur Campbell led some Virginia militia into the country of the Overhill, or upper Tennessee, Cherokee. After Sevier had stopped a band of invading Cherokee at the mouth of Boyd's Creek on French Broad River, he and Campbell ravaged or burned every Overhill Cherokee town but two. One thousand huts were burned, over fifty thou-

[7]Continental Congress Papers, Series 71, Vol. I, folio 265 (in Library of Congress).

[8]Draper Mss., 14 U 239.

[9]William P. Palmer (ed.), *Calendar of Virginia State Papers* (Richmond, 1881), II, 72.

[10]"Preston Papers," in *The Virginia Magazine of History and Biography*, XXVII (1919), 315.

sand bushels of corn taken, and large quantities of other provisions destroyed. Once again the Cherokee had gambled and had lost.[11]

The condition of the upper Tennessee Cherokee for the rest of the winter of 1780-81 was desperate. The British, although winning, were unable to help the red men. With its towns and corn destroyed the whole nation was reported to be "Out in the Woods perishing." Hanging Maw confessed that he had "nothing to eat—Only as he Digs roots Out of the Ground from Day to day." Peace, however, did not come to the frontiers. As Cornwallis advanced, fears of Cherokee revenge and of the rising of the previously neutral Creek possessed the frontiersmen. Spring brought the usual Indian raids on the Clinch River and on the Wilderness Road, and Sevier led a small mounted band of volunteers into the country of the Middle Cherokee and destroyed three towns.[12]

The capture of Pensacola by the Spanish general Bernardo de Galvez on May 9, 1781, put an end to any hope of Creek participation in a general Indian cooperation with the British and left the Cherokee to confront the Americans alone. Hence, on July 26, Sevier and Colonel William Christian of Virginia, whom General Nathanael Greene had made continental commissioners, met the leaders of the Overhill Cherokee at Long Island and told them that they had been utterly defeated and could count on no help from the British. Being in the jurisdiction of North Carolina, the Indians must now arrange reparations and land cessions with that state. The Cherokee were thus abandoned to their worst enemies.[13]

This deepened the tragic setting into which the Cherokee were thrust. They had vainly gambled twice on receiving British aid in taking up arms against the Americans. It now became their lot to deal with the rapidly increasing number of intruders on their lands at a moment when there was no state or national power in existence capable of restraining the frontiersmen or of compensating the Indians and otherwise doing them justice. At the same time it became apparent that the Cherokee could expect nothing from the Spanish successors to the British Indian department in Florida. There all the other tribes, the Seminole, the Creek, the Choctaw, and the Chickasaw found themselves favored with Spanish encouragement and protection. The lands of these nations formed a complete and continuous insulation between Spanish and American territory. There was no need to draw in the Cherokee.[14]

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[11]Draper Mss., 1 XX 40, 41; 14 U 239; 9 DD 24, 25; *Calendar of Virginia State Papers,* I, 397; Ramsey, *Annals,* 267.

[12]Draper Mss., 1 XX 43; *Calendar of Virginia State Papers,* I, 569, II, 143; Ramsey, *Annals,* 268. The Middle Cherokee country bordered the upper Tennessee Cherokee on the eastern side of the mountains.

[13]Wilbur H. Siebert, "The Loyalists in West Florida and the Natchez District," in *The Mississippi Valley Historical Review,* II (1915-1916), 476; Draper Mss., 1 XX 30, 45-49; *Calendar of Virginia State Papers,* II, 200.

[14]Arthur Preston Whitaker, *The Spanish-American Frontier: 1783-1795* (Boston and New York, 1927), 35, 41-43.

Being left to the tender mercies of the Americans, the Cherokee became pawns in one of the strangest jurisdictional disputes in the annals of American history. There existed an American central government, which, under the articles of confederation, had the power of "regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated." There was little likelihood of that central government attempting to exercise any real control over Cherokee affairs so long as there was no prospect of there being any public lands west of North Carolina. The United States government would not spend money on the Indian problem if it could not sell parts of the Indian's land for a good profit, as it was about to do in the Old Northwest. The other two governments involved were North Carolina's and that of the frontiersmen in the Carolina jurisdiction west of the mountains. From 1781 to 1784 the interests of these two were legally one and their objects not divergent. The former desired to use the Indian lands to help retire the state debt. The latter desired legal titles to the lands they had already occupied. After 1784, when circumstances led them to seek to create the separate state of Franklin, the frontiersmen, or Franklinites, desired a much larger slice of Indian land in order to help support the new state government. The situation was further complicated by the fact that neither North Carolina nor the frontiersmen had sufficient resources to conduct a peaceful and orderly solution of the problem as it involved the Indians. The Cherokee were thus in a hopeless situation, having to deal with a weak and disinterested national government, an impecunious and powerless state government, and an irresponsible and land hungry frontier people.

The central factor in this circumstantial victimizing of the Cherokee was the settlers' invasion of the upper Tennessee country that set in during 1781 after the Anglo-Indian collapse. So rapid was this influx that by the fall of 1782 the invaders had swept past the French Broad into the valley of the Big Pigeon and had rested only when they had staked their claims within a day's walk of the nearest Cherokee towns. The Cherokee, astonished at the wholesale invasion of their hunting grounds, appealed to North Carolina's governor, Alexander Martin, who, on February 11, 1782, ordered Colonel John Sevier to warn off the intruders and, if necessary, to lead the frontier militia against them to force them to withdraw. Sevier, of course, did no such thing and the squatter invasion continued throughout the spring and summer of 1782. Finally, on September 25, 1782, Old Tassel, chief spokesman for the Overhill Cherokee, appealed again to Governor Martin:

> Your people from Nollichucky are daily pushing us out of our lands. We have no place to hunt on. Your people have built houses within one day's walk of our towns. We don't want to quarrel . . . we . . . hope our elder brother will not take our lands from us, that the Great Man above gave us. He made you

> and he made us; we are all his children, and we hope our elder brother will . . . not take our lands from us . . . because he is stronger than we are. We are the first people that ever lived on this land; it is ours and why will our elder brother take it from us? . . . We have done nothing to offend our elder brother since the last treaty . . . we hope that . . . you will take pity on us your younger brother, and send Colonel Sevier, who is a good man, to have all your people moved off our land.[15]

North Carolina was willing to do the Cherokee as much justice as could be done without interfering with her own land needs. She was willing to let the Cherokee have much of the land that the squatters were occupying, but she was insistent upon the use for sale of lands south of the Nollichucky line of 1777. This insistence was embodied in an act passed in April, 1783, by which the northern and eastern boundary of the Cherokee country was made to extend from the junction of the Little Tennessee and Tennessee rivers, up the Tennessee to the confluence of the Holston and the French Broad, up the latter to Big Pigeon River, up this stream to its head waters and then along the ridge between the Pigeon River and Tuckasejah River, to the southern boundary of the state. This act accomplished the alienation of a large area of Cherokee hunting ground without the formality of a treaty and was based on the state's rights doctrine that England had ceded the Indians' land rights to North Carolina in the treaty of 1783.[16] It is apparent, however, that if the law could have been enforced so as to keep settlers from crossing the new boundary, it would have been satisfactory to the Cherokee because it was enacted at the instance of Joseph Martin, North Carolina agent to the Cherokee, with the purpose of confirming to the Cherokee the rest of their lands and with the purpose of excluding the settlers.[17] On May 17, 1783, a law was passed by the state opening a land office at Hillsborough for the sale of these lands and in the course of a few months nearly four and a half million acres had passed into private hands and a considerable reduction of the state war debt was thereby accomplished.[18] At the same time a third act was passed, authorizing the governor to hold a treaty with the Cherokee to effect a lasting peace. Apparently no money was appropriated because, on July 12, Governor Martin reported to Governor Benjamin Harrison of Virginia that "this Treaty was delayed for want of goods to give in return for Such lands as they [the Cherokee] might cede to N. Carolina." This delay climaxed several years of complete neglect of the Cherokee by North Carolina and lasted until the state, in June, 1784, ceded her lands and

[15]Ramsey, *Annals*, 270-271.

[16]*Ibid.*, 276.

[17]Journal of Martin Schneider, quoted in Samuel Cole Williams, *History of the Lost State of Franklin* (Johnson City, Tenn., 1924), 255. Joseph Martin served both North Carolina and Virginia as Indian agent.

[18]Walter Lowrie and Matthew St. Clair Clarke (eds.), *American State Papers, Indian Affairs* (Washington, 1832), I, 624; Samuel Cole Williams, *Beginnings of West Tennessee* (Johnson City, Tenn., 1930), 41-42.

the Cherokee problem to Congress. "I am sorry," wrote Governor Martin to the Cherokee in December, 1784, "that . . . I could not see you last spring as I promised you, as our beloved men [the legislature] . . . had prevented me by agreeing . . . that the Great Council of the thirteen American States, at Philadelphia should transact all affairs belonging to the Red People."[19]

North Carolina had thus accomplished her avowed purpose of presenting Congress with nothing but an Indian problem. All the useful land, according to her intentions, was disposed of for her own benefit. On December 8, 1783, Governor Martin wrote to the North Carolina delegation in Congress, "I venture to say there will be no cession worthy of acceptance, as the principal lands will be entered before this reaches you." And before Congress could act, the frontiersmen on the ceded lands took steps to organize a new state in the full expectation that Congress would approve such action and welcome them into the confederation as soon as the formal acceptance of the cession should take place. This meant the necessity for the creation of a public domain for the new state of Franklin, as it was called. As one of the Franklinites wrote to an eastern friend on December 20, 1784, "We would have the disposal of the Indian country, fix the limits of the new State, and appropriate the lands, as a fund, to the support of our own government."[20]

The repeal of the cession by the legislature of North Carolina in December, 1784, made little difference.[21] After some hesitation, John Sevier, in March, 1785, took over the office of governor of the new state of Franklin, whose legislature at once set about to create for itself a public domain. This was done by organizing the country into counties to the northern watershed of Little River, which included practically all the land occupied and claimed at that time by individual whites. The leaders of the new commonwealth then proceeded to go through the motions of getting the Cherokee to consent to the accomplished fact. A conference was arranged, which was held at the junction of Dumplin Creek and French Broad River in what is now Jefferson county, Tennessee. The Franklin delegates came away, saying that the Indians

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[19] *Calendar of Virginia State Papers*, III, 509; Ramsey, *Annals*, 304.

[20] *North Carolina State Records*, XVI, 919; Draper Mss., 7 XX 11. Another phase of this effort of the Franklinites to create a public domain is to be found in the efforts of Sevier and others to promote a colony at Muscle Shoals. See A. P. Whitaker, "The Muscle Shoals Speculation, 1783-1789," in *The Mississippi Valley Historical Review*, XIII (1926-1927), 370-372.

[21] In December, 1784, a state constitution had been drawn up and promulgated before North Carolina's repeal of the cession was known (Williams, *Lost State of Franklin*, 38-43, 330-338).

had agreed to a cession as far south as the southern watershed between the Little River and the Little Tennessee.[22]

The fundamental argument used by Sevier, one of the commissioners at Dumplin Creek, was that the settlements, even if unjustly made, were nevertheless made and could not be unmade. The fault was with North Carolina. The negligence of this state, he said, had been taken as a warrant by settlers to intrude on the Indians' lands. These settlements, he said, "had been imprudently made on the south side of French Broad and Holston, under the connivance of North Carolina and could not be broken up."[23]

As a matter of fact, the Cherokee nation did not consent at Dumplin Creek to Sevier's treaty. What happened was that a few young Cherokee met the Franklin commissioners and agreed to let the whites stay south of French Broad until the head chiefs of the nation were consulted. To use the words of the Cherokee, Old Tassel,

> Some of them [the Franklin commissioners] gathered on French Broad, and sent for us to come and treat with them . . . we did not go to meet them, but some of our young men told them that all their head men were at home; that they had no authority to treat about lands. They then asked them liberty for those that were then living on the lands, to remain there, till the head men of their nation were consulted on it, which our young men agreed to. Since then, we are told that they claim all the lands on the waters of Little River, and have appointed men among themselves to settle their disputes on our lands, and call it their ground.

This version of the affair is entirely borne out by Joseph Martin, North Carolina Indian agent, in his letter of August 1, 1785, to William Russell. This makes the treaty of Dumplin Creek a mere tentative arrangement that the white negotiators represented to be a solemn treaty.[24]

The Cherokee naturally looked elsewhere for help and found it momentarily in North Carolina and Congress. North Carolina resumed the preparations for a Cherokee treaty at the same time that she repealed the cession act in December, 1784. But when the state of Franklin refused to recognize North Carolina's jurisdiction, the preparations were dropped and Governor Alexander Martin appealed to Congress for help.[25] North Carolina was mistaken, however, in thinking that Congress would do anything to stabilize conditions on the frontier. Since there were no public lands on the Tennessee, Congress did not do as it was doing at that very time in the Northwest, that is, build garrisons, supply troops,

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[22]Carl S. Driver, *John Sevier, Pioneer of the Old Southwest* (Chapel Hill, N. C., 1932), 88; Ramsey, *Annals,* 295, 299. In describing the Dumplin Creek line, Ramsey says the ridge of "Little River and the Tennessee." This is what in modern usage is the ridge between the Little River and the Little Tennessee.

[23]*Ibid.,* 299-300.

[24]*Ibid.,* 319; Draper Mss., 2 XX 5.

[25]Ramsey, *Annals,* 306-307.

and remove squatters. By resolution of March 15, 1785, any military protection in the South and all supplies and expenses involved in any treaty in the South must be furnished by the state at the state's expense while the treaty commissioners appointed by Congress did the negotiating. The southern states could be represented only by delegates from each state without power to negotiate.[26] Consequently, the treaty held at Hopewell, South Carolina, from November 18 to 29, 1785, is an admirable example of how generous a government can be with Indians when lands in question do not belong to that government. The Cherokee asked for the restoration of the Nollichucky line of 1777 and got it, although the status of the settlers as far south as the north bank of the French Broad was not definitely settled, so that these people continued to have a legal right to their holdings. The Hopewell line even fell short of the North Carolina line, which dipped south of the French Broad at the junction of Big Pigeon. William Blount, the North Carolina delegate, formally denounced the congressional treaty and it was never recognized by that commonwealth at any time.[27]

The situation on the upper Tennessee in the months immediately following the treaty of Hopewell was an ugly one and was bound to become uglier. The Cherokee, satisfied that they now had a friend in Congress, confidently looked forward to the expulsion of the frontiersmen from south of French Broad. The state of Franklin on the other hand was resolved to defend these settlers to the last extremity.

In the fall of 1786, the upper Tennessee frontiersmen, of whom it had been said that "they scarce look upon them [the Cherokee] as human creatures,"[28] felt quite confident that this nation of Indians must give way to the advance of the whites. David Campbell, chief judicial officer of the state of Franklin, wrote to the governor of North Carolina on November 30, 1786,

> What will be the consequence of those [white] emigrations? Our laws and government must include these people or they will become dangerous; it is vain to say they must be restrained. Have not all America extended their back settlements in opposition to laws and proclamations? The Indians are now become more pusillanimous, and consequently will be more and more encroached upon; they must, they will be circumscribed.[29]

There was no holding back a people like this. Moreover, Campbell spoke with the knowledge of a season just passed of bitter and sanguinary warfare. Murders by Indians of white men south of the French Broad early in 1786 had been followed in March by a mounted invasion under

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[26]John C. Fitzpatrick (ed.), *Journals of the Continental Congress 1774-1789* (Washington, 1933), XXVIII, 160-162.

[27]*American State Papers, Indian Affairs,* I, 40-44; Williams, *Lost State of Franklin,* 97-98.

[28]Journal of Martin Schneider, quoted in *ibid.*, 255.

[29]*North Carolina State Records,* XX, 651-652.

Sevier of the Hiwassee Valley towns and the destruction of three towns and the killing of fifteen warriors. Cherokee retaliation followed, whereupon the Franklinites, Colonel Alexander Outlaw and Colonel William Cocke, led another mounted band into the Cherokee country and imposed on the Indians the harsh treaty of Coyatee, of August 3, 1786, which was a confirmation of the treaty of Dumplin Creek and which, according to Ramsey, received the involuntary endorsement of the leading chiefs, Old Tassel and Hanging Maw.[30]

In spite of all their punishment and in complete opposition to the aggressive hopes of the Franklinites the Cherokee continued to expect the removal of the intruders as promised in the treaty of Hopewell. On September 5, 1786, the North Carolina Indian agent, Joseph Martin, had a conference with Old Tassel and Hanging Maw at Chota. The Indians reminded Martin of the promise, pointed out that the whites were occupying more land instead of withdrawing, and expressed much apprehension.[31]

Unfortunately, Congress continued for several years to believe it could remove the whites from south of the French Broad without doing anything effective. On August 7, 1786, there was passed an ordinance "for the regulation of Indian Affairs," authorizing the appointment of a congressional superintendent for all the Indians south of the Ohio. The ordinance as originally reported by committee proposed to cause the superintendent to identify himself with tribal relations much as Sir William Johnson and John Stuart and their deputies had done in the days of British rule. The committee's draft gave the superintendent and the commandants of the congressional troops complete jurisdiction over crimes growing out of the relation of the two races. It also provided that the superintendent might control prices of furs and skins and specify where and when and how traders might open their packs.[32] All of these provisions were dropped because of states' rights objections. The superintendent was given power to license traders, but not to control trade, to protect the Indians from liquor and rapacity, but with no money to make such protection possible, and to collect information as best he could. No provision was made for continental troops to be garrisoned in the South. Above all, it was declared that "the legislative right of any state within its own limits, be not infringed or violated."[33] The first superintendent, James White, thereupon set out to master the situation with no troops, no money, and almost no real power. Events proved that it was altogether too much for him even to straighten out Creek affairs

[30]Ramsey, *Annals*, 341-346; Driver, *Sevier*, 28.

[31]Continental Congress Papers, Series 56, folio 417.

[32]*Ibid.*, folios 469-475.

[33]*Journals of the Continental Congress*, XXXI, 490-493.

in the country where he spent most of his time. The other southern tribes could not be touched and nothing was done until early in 1788, when Joseph Martin became a congressional agent to the Cherokee, and then it was too late.

In 1787, the secretary at war, Henry Knox, fearful lest the frontiers, both north and south, were drifting into general Indian war and desiring additions to the public domain, proposed that Georgia and North Carolina be strongly urged to cede their western lands. A congressional committee reported in favor of this proposal and at the same time interlarded its report with statements justifying the Cherokee and blaming the Franklinites for the difficulties. But instead of accepting the committee's nationalistic report, Congress, on October 26, 1787, was obliged by the states to adopt one of a states' rights complexion. Treaty settlements were to be made with the Creek and Cherokee by four commissioners, three of whom were to be appointed by the states of North and South Carolina and Georgia, and any two of whom might be a quorum. The fourth commissioner was to be the continental Indian superintendent. The expenses of the treaty were to be borne by the states involved. In regard to boundaries, they were instructed first that "no Cession of land is to be demanded of the Indian tribes" and second that they were "so to conduct the matter that the States may not conceive their Legislative rights in any manner infringed." So far as the Cherokee frontier on the upper Tennessee was concerned, these two instructions were utterly incompatible. In regard to trade, the commissioners were charged with another set of incompatibilities. They were to "be careful not to irritate the States nor to sacrifice the rights of the Union."[34]

The Cherokee, of course, could not know that Congress was not going to carry out the treaty of Hopewell. When they were confronted with repetitions in 1787 and 1788 of the violence they had known in 1786, originating among the Franklinites, it was only natural that they should strike back and at the same time expect to be justified by Congress. Hence, during these years, there was forming a Cherokee movement that in 1788 was to bring into the field a great conquering Cherokee army organized to sweep every settler from the south of the French Broad.

The Cherokee had much to complain of during 1787 and 1788. When Joseph Martin, in the spring of 1787, had come back to the frontiers of the upper Tennessee armed with Governor Richard Caswell's proclamation ordering the settlers south of the French Broad to disperse, they had insolently replied "that they had knowledge Enough to judge for themselves; that they should not ask North Carolina nor no other power

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[34] [Way and Gideon (comps.)], *Journals of the American Congress: from 1774 to 1788* (Washington, 1823), IV, 804; Continental Congress Papers, Series 30, folio 327.

how they were to be Govern'd."[35] Their attitude reached a stage of even greater defiance when, early in 1787, the Franklin legislature passed a law opening to entry all the land south of French Broad clear to what is now the Little Tennessee River, thus exceeding the line of Dumplin Creek and Coyatee by the width of the northern watershed of the Little Tennessee River.[36] In spite of this Hanging Maw told Joseph Martin on March 24 that they still expected a square deal from Congress.[37] At about the same time the Cherokee were subjected to the humiliation of having a peaceful hunting party near the Wilderness Road attacked by Colonel John Logan of Kentucky who, mistaking them for hostile Chickamauga, killed seven of them. Retaliation, of course, by members and friends of the families of the deceased, took place. But the most insulting part of the whites' procedure in this affair was the Virginian Governor Edmund Randolph's explanation, accompanied as it was by false accusations of the burning of white women and threats of punishment if the Cherokee did not accept the explanation. The Cherokee replied to Randolph in bitter denunciation, but discreetly refrained from general warfare.[38]

The year 1788 brought matters to a head. Certain individual Cherokee, impatient with the congressional delay, took matters into their own hands. The frontiersmen became even more aggressive partly as a result of a change in policy by the new governor of North Carolina, Samuel Johnston, who sought to kill the Franklin statehood movement with kindness by supporting the frontier Indian policy. He dropped Governor Caswell's proclamation against the squatters south of the French Broad; he refused to cooperate with Congress by not appointing a state commissioner to treat with the Cherokee according to the ordinance of October 26, 1787; and he made Joseph Martin brigadier general of militia in the upper Tennessee Valley, who began using his influence to get North Carolina to support and finance an expedition against the belligerent Chickamauga.[39]

The spark that led to more general conflict was the massacre in May, 1788, by a Cherokee named Slim Tom, of the entire family of John Kirk, who lived on the south side of the Little River, about nine miles from Chota, on lands described by Joseph Martin as "reserved by the Legisla-

[35] *North Carolina State Records,* XX, 623, XXII, 676; Williams, *Lost State of Franklin,* 116-117; *Calendar of Virginia State Papers,* IV, 261; Ramsey, *Annals,* 361.

[36] *North Carolina State Records,* XX, 656, XXII, 678; Ramsey, *Annals,* 356. It is assumed in this paragraph that when Ramsey referred to the Tennessee River he meant the stream that is now known as the Little Tennessee.

[37] *Calendar of Virginia State Papers,* IV, 262.

[38] *Ibid.,* IV, 249, 254, 256, 360; Draper Mss., 9 DD 74.

[39] *North Carolina State Records,* XXI, 456, 457, XXII, 693, 717. The Chickamauga were a small section of the Cherokee who had left their native haunts and settled on the Tennessee River near Lookout Mountain.

ture of North Carolina for these Indians on which . . . they were placed by the Commissioners under the direction of Congress." Kirk's farm was one of the nearest, if not the nearest, to the Indian country.[40] The best Indian explanation of this bloody act was made by a Cherokee chief from a town called Ustanali (South Carolina) to Joseph Martin. He laid the blame squarely on Kirk for taking advantage of the Cherokee pledge of peace at Hopewell by leading his family on to forbidden ground. He said,

> You then said [at the treaty of Hopewell] the people should move off in six moons from that time; but near forty moons are past and they are not gone yet. We well remember, whenever we are invited into a treaty, . . . and bounds are fixed, that the white people settle much faster on our lands than they did before. It must certainly be the case, they think we will not break the peace directly, and they will strengthen themselves and keep the lands. You know this is to be the case. You told us at the treaty, if any white people settled on our lands we might do as we pleased with them. They come and settle close by our towns, and some of the Chicamoga people came contrary to our desire, and killed a family.[41]

According to John Kirk, "this began the war."[42] After Martin had restrained one band of vengeance seekers, and after another had attacked an unidentified Cherokee town, killing an old woman and wounding two children, a mounted band of one hundred and fifty under Sevier rendezvoused at Hunter's Station on Nine Mile Creek, south of the French Broad, and set out for the Hiwassee Valley about June 1. Before leaving the Cherokee country, Sevier returned by way of the Little Tennessee River and, burning and killing as he progressed, finally reached a point across the river from the Cherokee town of Chilhowee. It happened that there were present in this town two of the most beloved and important chiefs of the Cherokee nation, Old Tassel and Old Abraham. These men, according to the justices of Abbeville county, on the South Carolina frontier, were "remarkable for their good Offices & Fidelity in the darkest situation of our Affairs." Sevier, desiring to negotiate, raised a flag of truce and invited the chiefs to cross the river and treat. There eventually gathered in Sevier's tent about six warriors, all unarmed. A time came when Sevier was absent and the Indians were unguarded. This was the opportunity for John Kirk, who, still obsessed with rage against the

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[40]Continental Congress Papers, Series 150, Vol. II, folio 444; Draper Mss., 2 XX 28; Ramsey, *Annals*, 419.

[41]*American State Papers, Indian Affairs*, I, 47. The evidence as to whether or not Slim Tom and his band were Chickamauga is not conclusive.

[42]*Georgia State Gazette*, April 25, 1789, quoted in Williams, *Lost State of Franklin*, 208.

Cherokee for the murder of his family, entered the tent of peace and sank his tomahawk into the head of every Cherokee present.[43]

Much more can be said in behalf of the long suffering Cherokee. In April, 1788, Martin had discovered a band of frontiersmen from the settlements on the lower part of the Holston River organized to take vengeance on the Cherokee for the recent murder of a white man and boy. In his report to Henry Knox on July 10 Martin, now congressional agent to the Cherokee, described how he had taken a delegation of five whites from this band as witnesses to his investigation of the recent killing in the Cherokee country. They had found that the murder was committed by Creek and Chickamauga, not by Cherokee, that the Cherokee had actually turned back several murderously inclined bands of Creek and Chickamauga bound for the white frontiers, and that an evacuation by the Cherokee of the towns nearest the whites was getting under way. Upon Martin's advice and reassurance the evacuation was stopped and the Indians planted their corn.[44] It should also be said that after Slim Tom murdered Kirk's family the Cherokee disclaimed any responsibility, saying that the murderers were Creek and Chickamauga.[45] Furthermore, prior to the time of Sevier's invasion of the Hiwassee Valley, the upper Tennessee Cherokee had agreed among themselves to repudiate the Chickamauga and had declared that all Indians found on land south of the Hiwassee were subject to the vengeance of the whites.[46] Finally, when the men under Colonel James Hubbard, who was conducting a movement in support of Sevier, neared Chota, the Cherokee capital, the inhabitants of it and of five neighboring towns fled to their relatives across the mountains in South Carolina "for peace and protection." Before fleeing, however, they had agreed to move aside and let the whites fight it out with the Creek and Chickamauga.[47]

It was thus quite natural that after Kirk's bloody revenge at Chilhowee the Cherokee should retaliate. According to Colonel George Maxwell of the Sullivan county militia, writing on July 9, Sevier's conduct had "so exasperated the Indians that the whole body of them is at hot war with us."[48] Settlement after settlement was attacked by small Cherokee

[43]Continental Congress Papers, Series 56, folios 429, 432, 436-438, Series 150, Vol. II, folio 445; *Calendar of Virginia State Papers,* IV, 452; Draper Mss., 2 XX 28; Ramsey, *Annals,* 419-424; Williams, *Lost State of Franklin,* 206-207. At about the same time as Slim Tom's murder of Kirk's family, a party of about forty whites, descending the Tennessee and bound for the Cumberland settlement, was set upon in the Chickamauga country and all but three were killed. Although the Cherokee were not involved in this affair, it added fuel to the flames of white resentment (Ramsey, *Annals,* 508-509).

[44]Continental Congress Papers, Series 150, Vol. II, folio 443.

[45]*Ibid.,* folio 445; *Calendar of Virginia State Papers,* IV, 452.

[46]Continental Congress Papers, Series 150, Vol. II, folio 445.

[47]*Ibid.,* Series 56, folios 432, 436.

[48]*Ibid.,* Series 150, Vol. 3, folio 409; *North Carolina State Records,* XXII, 718.

bands. There was nothing for the frontiersmen to do but to strike back. As Colonel Thomas Hutchings put it on July 11, "The war with the Cherokee have [*sic*] now become general, altho' in part unjustly brought on—we are of necessity obliged to defend ourselves against the cruelties of an inveterate enemy."[49] But the white inhabitants south of the French Broad were not able to defend themselves. Indeed, in the face of the great Indian army that began its invasion of that country in October it is doubtful if all the inhabitants of the upper Tennessee Valley could have successfully defended the disputed lands. Something more than raids like that of Sevier in June and the equally brutal one of Alexander Outlaw in August was necessary. Martin tried it in September with North Carolina credit and five hundred frontier militia and supporting supplies, but made a miserable failure of the attempt. He sought to avoid hostilities against the Cherokee and to concentrate on the Chickamauga far down the Tennessee River, but the Indians withdrew into Lookout Mountain, whereupon Martin's militia refused the sanguinary task of trying to dislodge them.[50]

The Indian army that appeared on the frontier in October following Martin's disastrous retreat was a formidable one indeed. According to Martin himself "the whole frontier country seemed then to be in their power." The army numbered 1200 Cherokee and 400 Creek. But above all it included a weapon seldom available to Indians: several companies of horsemen equipped from the Creek nation and commanded by white men. They opened their invasion on October 17 by an attack on Gillespie's station, whose inhabitants, mostly women and children, on refusing to surrender, were killed to the number of twenty-eight.[51] The frontier south of the French Broad began to break. Daniel Kennedy of Evan's Ferry wrote to Colonel John Tipton on October 22, "The Stations are Chiefly evacuated on the South Side of the French Broad, and the road Crowded With Women and Children making their Exeate [*exit*] Numbers of them On Foot, Who have lost all But their Lives only, and Seem Contended [*sic*] to Carry their Tender Babes in their Arms to make their Escape."[52]

At this juncture there appeared among the invading Indian army the head chief of the upper Tennessee Cherokee, Hanging Maw. He had come post haste from Hopewell, South Carolina, where Joseph Martin

[49] Continental Congress Papers, Series 150, Vol. III, folio 401.

[50] *American State Papers, Indian Affairs,* I, 48; Continental Congress Papers, Series 150, Vol. 3, folios 361-365, 405, 409, 413, 505-507; Williams, *Lost State of Franklin,* 210-211; Ramsey, *Annals,* 517; Stephen B. Weeks, "General Joseph Martin and the War of the Revolution in the West," in Annual *Report* of the American Historical Association for the Year 1893 (Washington, 1894), 463.

[51] *American State Papers, Indian Affairs,* I, 47; Ramsey, *Annals,* 518-519.

[52] North Carolina Historical Commission, Miscellaneous Papers, I (1758-1788, September 20-November 30), 134.

had shown him a copy of a congressional proclamation, dated September 1, 1788. This proclamation, passed at the behest of Knox, who had just received full information from the continental Indian agents, Richard Winne and Martin, concerning the Kirk affair and the subsequent warfare, purported to put into force the treaty of Hopewell. By it the United States forbade "all such unwarrantable intrusions and hostile proceedings against the Cherokees" and enjoined all whites on the Cherokee hunting grounds south of the French Broad to depart or to remain "at their peril."[53] Upon observing this congressional intervention as represented to them by their trusted chief, Hanging Maw, the Cherokee-Creek army dispersed. The evidence indicates without the slightest question that the Cherokee interpreted the proclamation as a solemn promise by the United States that the settlers south of the French Broad would be removed. In a great council at Ustinali in South Carolina on November 1 the Cherokee declared to Martin, "We have heard from our brother, also from Congress, likewise the Governor of Virginia, who tells us that the people settled on our hunting grounds shall be removed without loss of time, which gives us great satisfaction. . . . We hope you will keep your people now at peace, and not . . . disturb us as they have done."[54] In February, 1789, Alexander Dromgoole met an assemblage of Cherokee warriors on the Coosawatee River, in what is now the extreme northwest corner of Georgia. Here the warriors told him, "We set out last fall to lay waste and burn the houses of all those people settled on our hunting grounds, but hearing the good talks of Congress, we done nothing, but took one station . . . and desired all our young warriors to return home and set down to see if Congress would remove them, which we all expect will be done soon, and in consequence of this we have all laid down the hatchet."[55]

And so during the winter and spring of 1789 the upper Tennessee Cherokee began to come in from the Creek and cismontane Cherokee lands to which they had fled during the warfare of 1788.[56] They returned with a new resolution to keep their own people in order so as to avoid any opportunity for friction with the whites. The evidence of this strange fact comes from an unknown correspondent whose letter, dated "Ceeder Spring," October 18, 1789, is preserved in the Draper Collection. The writer declared,

> The Indians are now much ingaged at present in New arranging their government . . . they latly passed Several very wholsom and satisfactory laws, Murder horstealing or any violation of the treaty of peace is to be punished

[53] *American State Papers, Indian Affairs,* I, 28, 46; *Journals of the American Congress,* IV, 860.
[54] *American State Papers, Indian Affairs,* I, 47, 48; *Calendar of Virginia State Papers,* IV, 504.
[55] *North Carolina State Records,* XXII, 788-789.
[56] *American State Papers, Indian Affairs,* I, 30.

> with Death. Spiritous liquors are prohibited from their Country Several Ill Disposed fellows are already in exile since the introduction of these laws. A fellow Called the bold hunter is appointed to ride the Circuit and see that the New regulations are Caried into execution.

The writer added that there was ample evidence that the Cherokee would welcome any efforts of the United States to introduce the practical arts of the white man's civilization.[57]

The golden opportunity of the Cherokee had passed. Congress could not and did not enforce the treaty of Hopewell. To do so required the assent and cooperation of the state of North Carolina, and these could not be had. The North Carolina delegation to Congress had caused to be inserted in the proclamation of September 1, 1788, a provision that nothing in it should "be considered as affecting the territorial claims of the state of North Carolina." Hugh Williamson, one of that delegation, wrote to Governor Johnston on September 6, 1788, "This proviso . . . leaves by implication every Claim of the State in its useful force. The Treaty of Hopewell will never operate against the Territorial Claims of the State whenever she thinks fit to make them."[58] In conformity with this doctrine the legislature of North Carolina in the fall of 1788 appointed John Steele commissioner to treat with the Cherokee as recommended by the congressional resolution of October 26, 1787. Steele was instructed to seek to obtain a land cession as far south as the Little Tennessee—Little River watershed as provided in the treaty of Dumplin Creek. Steele made a valiant effort to bring about a treaty, but the Creek situation in Georgia and other factors caused the two parties to miss each other, so that the only thing accomplished was a mutual agreement by correspondence in June, 1789, between Steele and the Cherokee chiefs to extend the truce.[59]

But the position of Congress was becoming more and more absurd. The Indians may have checked their invasion as the result of the proclamation of September 1, 1788, but that document did not check those whom the proclamation was supposed to remove. Sevier, believing the frontier about to be attacked by the Indians, had led one hundred horsemen into the Cherokee country and on January 10, 1789, according to his account, in a battle near Flint Creek, killed over 145 red men with a loss of only five whites killed and sixteen wounded. Three other invasions of the Cherokee lands by whites are referred to by contemporaries, but none seem to have been so sanguinary as this one.[60] Martin was most

[57]Draper Mss., 9 DD 53.

[58]*North Carolina State Records,* XXI, 497.

[59]*Calendar of Virginia State Papers,* IV, 520; *American State Papers, Indian Affairs,* I, 48, 55, 67; Draper Mss., 4 XX 6; Walter H. Mohr, *Federal Indian Relations, 1774-1788* (Philadelphia, 1933), 167-170.

[60]Williams, *Lost State of Franklin,* 218-219; *North Carolina State Records,* XXI, 506, 546-547.

exasperated at these acts and Governor Johnston, who had been doing his best to satisfy the Franklinites, denounced Sevier as "incorrigible." These frontiersmen, declared Johnston, "can be considered in no other light but that of free Booters and Robbers, and unless they refrain from those horrid atrocious Acts of Barbarity which have been so frequently repeated in that Quarter, they will be looked upon as the enemies of Mankind in general and treated accordingly."[61] But the temper of these "free Booters and Robbers" is shown by the meeting on January 13, 1789, of the people "south of Holston, French Broad and Big Pigeon Rivers," at which it was resolved, among other things, that "it would be good policy, and of essential service to this country if the Indians will agree to give up any of the country south of the [Little] Tennessee river to our Council of Safety." Agents were designated to confer with the Cherokee and measures were taken to raise the purchase money. Thus did frontiersmen reach even beyond the Dumplin Creek line. Indeed, Colonel Thomas Hutchings had reported to Joseph Martin on July 11, 1788, that Sevier's band on its Hiwassee invasion had "made upwards of 300 improvements" on that stream.[62]

Congress was soon to surrender. During 1789 Knox continued to storm against the upper Tennessee white men and to deplore the humiliating spectacle of a national treaty being trampled on. But he did nothing and advised President Washington that nothing could be done until North Carolina ratified the federal constitution. This advice was accepted by both Washington and Congress. Hence, the new national commissioners who were sent south in August, 1789, were instructed to avoid the Cherokee until North Carolina had ratified. This the commissioners did except for sending complimentary letters to the nation and promising that when Congress did get around to treating with them the treaty of Hopewell would be enforced.[63]

The end came in 1789 when North Carolina ratified (November 21) the federal constitution and ceded (December 12) to the United States its western land claims, including the upper Tennessee country, all of which became, in the course of the following year, the Territory South of the River Ohio. The abandonment of the treaty of Hopewell was a part of the price the United States was willing to pay to get North Carolina into the Union. On January 4, 1790, Knox for the first time recognized the fact of the utter impossibility of removing the families from their farms south of the French Broad when he admitted to Washington that "existing circumstances may require that the boundaries

[61] *Ibid.*, XXI, 427, 536-537.

[62] Williams, *Lost State of Franklin*, 349; Continental Congress Papers, Series 150, Vol. III, folio 401.

[63] *American State Papers, Indian Affairs*, I, 38, 53, 55, 67, 69, 70, 77; *Annals of Congress*, 1 Cong., 1 Sess., 69.

stated in the said treaty [of Hopewell] should be more accommodated to the inhabitants who cannot be removed." On August 11, 1790, four days after the Creek problem had been seemingly settled at the treaty of New York, Washington asked the Senate for permission "to arrange a new boundary so as to embrace the settlements made by the white people since the treaty of Hopewell." The Senate acquiesced and specified $1000 as the annuity to be paid the Cherokee for the cession.[64]

Thus came to an end the first Cherokee struggle for independence against the American nation. On June 26, 1791, Governor William Blount of the Southwest Territory, American commissioner to treat with the Cherokee, met the tribe at White's Fort (Knoxville), some four miles below the junction of the French Broad and Holston rivers. On July 2, 1791, a treaty was signed making the upper Tennessee Cherokee-American boundary the watershed between the Little and the Little Tennessee rivers and guaranteeing Indian possession of lands not ceded.[65]

The Cherokee, in response to Blount's kind but firm and *de facto* arguments, signed this document, trusting that the United States would not see them destroyed. Before they signed they made one last despairing plea for justice. Why, the Indian spokesman asked, have these encroachments been made?

> Is it because we are a poor broaken Nation and not able to help ourselves or is it because we are red people or do the white people look on us as Buffalow and other wild beasts in the woods And [think] that they have a right to take our property at their pleasure—Tho' we are Red we think we was made by the same power and certainly we think we have as much right to enjoy our property as any other human being that inhabits the Earth if not we hope our Brother will not screen anything from us . . . we flatter ourselves that we have now got our Affairs in the hands of honest and just men and if we do not now have justice done by our Brother we must next look up to our father.

They signed, and after they had done so, Hanging Maw, the Cherokee leader, arose and said to his white conquerors, "I hope it will last for ages in the land . . . when you first settled on the sea you were young—you have grown up since very strong . . . . we are but few to what we were . . . Faulter not from the agreement between us. Our children may be better raised—use your utmost & let us see how many ages shall pass away while we have hold of this the token of friendship & Truth."[66]

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[64] *American State Papers, Indian Affairs,* I, 60, 83; *Annals of Congress,* 1 Cong., 2 Sess., 1034.

[65] Charles J. Kappler (ed.), *Indian Affairs. Laws and Treaties* (Washington, 1903), II, 23.

[66] Draper Mss., 15 U 20-21.

THE CONSTITUTIONAL OPINIONS OF JUSTICE JOHN CATRON*

By Edmund C. Gass

John Catron was the first Tennessean to sit on the Supreme Court of the United States. His opinions as an associate justice of that body not only reflect the man's personality with peculiar accuracy, but they also throw light upon several of the major political issues of the day. His appointment to the Supreme Court came after a rather active political career in Tennessee, during part of which he served on the highest courts of that state.

Very little is known of Catron's early life.[1] He was probably born in Pennsylvania about 1786. The poverty of his parents restricted his educational opportunities, although in early manhood he studied law, and was admitted to the Tennessee bar in 1815. Catron came to Tennessee from Kentucky, whither he had gone as a young man, after serving under Andrew Jackson in the War of 1812. After practicing law in Nashville for a few years he was appointed, in 1824, to the supreme court of errors and appeals, at that time the highest appellate court in the state.[2] By an act of December 15, 1831,[3] the legislature provided that one of the judges of the court be known as the chief justice. Catron was appointed to the newly created position and held it until his retirement from the state judiciary in 1835.[4]

Prior to his appointment to the national Supreme Court, Catron showed a pronounced adherence to the principles of Andrew Jackson. Upon the question of the Bank of the United States and that of jurisdiction over Indian tribes, he proved to be a staunch defender of Jacksonian democracy. His opinions, moreover, while frequently lacking in literary quality, reflect the simple and pragmatic philosophy of the frontier.

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*Read at a meeting of the Society in Knoxville, November 1, 1935.

[1]Brief sketches of Catron's career are to be found in S. H. Laughlin, "Sketches of Notable Men", in *Tennessee Historical Magazine*, IV (1918), 76-77, and W. L. Fleming, "John Catron", in *Dictionary of American Biography*, III (New York, 1929), 576-577.

[2]*Ibid.*, 576.

[3]*Public Acts of the General Assembly of the State of Tennessee, 1831* (Nashville, 1831), 76-78.

[4]Fleming, *loc. cit.*, 576.

No sooner had Jackson taken office than Catron opened the presidential war on the Bank of the United States. At Nashville, in the summer of 1829, he published a series of attacks against the local branch of the bank.[5] He charged it with demanding excessive interest rates,[6] with withdrawing from the state large quantities of specie, and with creating dangerous conditions of inflation. Anticipating part of Jackson's first annual message to Congress, Catron went on to state that the time had come to consider the request of the bank for recharter—a request that was certain to be made.[7] In thus making articulate the common man's prejudice against moneyed interests, he foreshadowed his judicial opinions of a later day.[8]

Catron's support of Jacksonian policies was further demonstrated in the controversy over the status of Indian tribes within a state. The nature of the controversy is, of course, familiar; the chief issue was whether a state of the Union might lawfully extend its jurisdiction over Indian tribes within its borders. It is also well known that the state of Georgia, as well as President Jackson, defied the Supreme Court of the United States when the latter rendered a series of opinions adverse to Georgia's claim of jurisdiction.

Tennessee, at the same time, was confronted with identically the same problem, and sought to solve it after the manner of her neighboring state. Many persons seemed to believe that the state ought to extend its jurisdiction over the Indians located in the southeastern portions of the commonwealth. Discussion of the proposal took place in the General Assembly between 1829 and 1832,[9] and Governor William Carroll, in his message of September 16, 1833, urged that definite action in the

[5]These anti-bank articles first appeared in the Nashville *Republican*, but were reprinted in the Knoxville *Register*, July 8 and 15, 1829. See, also, St. George L. Sioussat, "Some Phases of Tennessee Politics in the Jackson Period", in *The American Historical Review*, XIV (1908), 64-65. The fact that Catron occupied a high judicial position at this time seems to have been no bar to his taking an active part in politics.

[6]In the case of the Nashville Bank *v.* Hays and Grundy, 1 Yerger 243 (1829), Catron upheld the state usury laws prohibiting excessive interest charges. He stated that no lender, whether an individual or a bank, ought to charge high interest rates, and that the borrower's interests were always entitled to protection. He maintained that the borrower and his family might even need legal protection against the borrower's own inclination to borrow (*ibid.*, 245-246).

[7]Knoxville *Register*, July 8 and 15, 1829. By way of reply, a friend of the bank accused Catron of playing politics with a view to obtaining a federal judgeship, or of becoming chief justice of the supreme court of errors and appeals, should the judicial system of the state be reorganized (Sioussat, *loc. cit.*, 65-66). It is difficult to estimate the element of truth in this charge, but, as has been seen, Catron did in fact become chief justice of the court when it was organized in 1831 (*supra*, 54).

[8]*Infra*, 63-67.

[9]See *Journal of the House of Representatives of the State of Tennessee, 1829* (Knoxville, 1829), 65; *Journal of the Senate of the State of Tennessee, 1829* (Knoxville, 1829), 333; *ibid., 1832*, p. 133. For a treatment of the entire subject, see St. George L. Sioussat, "Tennessee and the Removal of the Cherokees", in *Sewanee Review*, XVI (1908), 337-344.

matter be taken by the legislature.[10] A House committee, appointed in response to the governor's recommendation, reported one week later that "Of our constitutional right to take jurisdiction of crimes and contracts . . . the committee entertain no doubts."[11] The report supported the view that "the general controlling authority over the Indians" lay with the states rather than with the federal government, and went on to criticize at some length Chief Justice Marshall's opinion in the case of Worcester *v.* Georgia.[12] In November an act was accordingly passed extending the jurisdiction of the state to its southern limits, thus bringing the Cherokee directly under Tennessee laws and courts.[13]

With the legislature thus plainly defying an opinion of the federal Supreme Court, it was natural that there should arise a case involving the validity of the act. Such a case was that of The State *v.* Foreman,[14] which came before the state supreme court in 1835. The cause grew out of an indictment charging murder, which was returned against the defendant. The latter pleaded to the jurisdiction of the court, alleging that the crime, if committed at all, was committeed within the limits of the Cherokee nation. He specifically alleged that both he and the murdered man were native Cherokee, and that the jurisdictional act of November, 1833, was unconstitutional.

Catron, who announced the decision of the court, upheld the constitutionality of the statute in an elaborate and voluminous opinion. In maintaining the sovereign power of the state to govern the Indians in question, he appealed, not only to the constitutional rights of the states as against federal omnipotence, but also to custom and force.

The doctrine of Christian supremacy and the right of conquest were expounded by Catron at some length. He said that these "mere wandering tribes of savages", "with the fierceness of wild beasts", ought to give way to Christian civilization;[15] nay, they even "deserve to be extermin-

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[10] *Senate Journal, 1833,* pp. 17-18.

[11] *House Journal, 1833,* p. 42.

[12] *Ibid., 1833,* pp. 42-44. It was in the case of Worcester *v.* Georgia, 6 Peters 214 (1832), that Marshall gave the famous opinion declaring the Cherokee to enjoy the status of a nation, as recognized by treaty, and denying Georgia's right to exercise sovereignty over them.

[13] *Public Acts of Tennessee, 1833,* p. 10.

[14] 8 Yerger 256.

[15] *Ibid.,* 266, 270.

ated as savage and pernicious beasts."[16] At the same time he sought to show that the title of the white man to the land rested upon the right of conquest. The case, he said, was not one for "The philosopher and jurist of the quiet city"; rather, it ought to be considered "upon a principle of no countervailing right—that of self-preservation."[17] If this "claim be denounced by the moralist", the reply is that our ancestors "were obliged to conquer and to govern, or to perish."[18] In short, although "Refined sensibility and elevated philanthropy may hold what it will, the truth is, neither our theory or [*sic*] practice has ever allowed to the Indians, any political right extending beyond our pleasure."[19]

While the arguments thus far presented were really beside the point, Catron advanced familiar state's rights doctrines upon the constitutional aspects of the case. He maintained, in the first place, that no treaty or act of Congress could deprive a state of its undelegated sovereignty. Accordingly, inasmuch as North Carolina and Tennessee admittedly had plenary jurisdiction over the Indians within their respective areas when they entered the Union, they retained that power except insofar as Congress might regulate commerce with the Indian tribes.[20] In the exercise of the commerce power, moreover, Catron insisted that Congress was strictly limited to acting upon actual commerce, and that the latter term did not embrace the exercise of criminal and civil jurisdiction over the Indians.[21]

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[16]*Ibid.*, 266. It is interesting to observe that in partial support of these vigorous doctrines Catron cited the opinion of Judge Haywood in the earlier case of Cornet *v.* Winston's Lessee, 2 Yerger 143, 150, which had been decided in 1826. In the Cornet Case Judge Haywood had dissented from Catron's opinion in this same case, while Catron had eloquently upheld the rights of the Cherokee and the supremacy of federal treaties with them. For example, he said: "They [the Cherokee] are in truth a nation of people under the tutelage of the government of the United States. . . ." 2 Yerger 143, 146. Again: "That our recognition of certain rights in the Indians, to the soil they occupied, and our compact to support those rights by the treaty of Holstein [*sic*], are binding upon us, has not been questioned for thirty years" (*ibid.*), 147. These rights, he was "proud to say, have for the last years, been respected with that good faith on our part, that became us as honest men and Christians, and which the courts of justice are bound to regard" (*ibid.*, 150). Finally: "I hold that the early notions of the Spaniards and others *'that the Indians were mere savage beasts without rights of any kind'*, have long since been exploded. . . ." (*ibid.*, 150). This noble defense of the Indian and his rights is in rather startling contrast to the same judge's phraseology of nine years later.

[17]8 Yerger 256, 271.

[18]*Ibid.*, 277, 271.

[19]*Ibid.*, 278.

[20]*Ibid.*, 285, 303-304, 313-315. Catron seems to have drawn a distinction between rights of soil and rights of sovereignty. He argued that the treaties with the Indians only guaranteed to the latter the occupation of soil, while the states continued to enjoy undiminished sovereignty over the same soil, except as to the regulation of commerce (*ibid.*, 275-277, 285, 307. See, also, Johnson *v.* M'Intosh, 8 Wheaton 542 [1823]).

[21]8 Yerger 256, 315-319. Mr. Justice McLean had earlier announced the same doctrine from the United States Circuit Court sitting in Knoxville. In United States *v.* Baily, 1 McLean (C. C.) 234, and 24 Fed. Cases 937 (1834), he had held that the act of Congress of 1817 was unconstitutional insofar as it purported to extend federal criminal jurisdiction, under the commerce clause of the constitution, to the Indian area in Tennessee.

The constitution, furthermore, forbids the establishment of a new state within the territory of an existing state without the consent of the latter. The federal government, then, could not of its own power either create or recognize a foreign sovereignty—such as the Indians were held to be by Chief Justice Marshall—within the limits of Tennessee.[22] In conclusion, Catron declared that as each state is guaranteed a republican form of government, Congress was forbidden to encroach upon the jurisdiction of a state within its recognized boundaries.[23]

The essential agreement, then, between the positions of Jackson and Catron on the Indian question, is apparent; and it appears that Catron was ready to reverse his earlier views on the same subject in order to be in harmony with his chief.[24]

The Foreman Case was the last of importance in which Catron gave an opinion as a state judge. During the winter of 1835-36, the legislature reorganized the judicial system of the state pursuant to Article VI, section 2, of the new constitution.[25] The supreme court of errors and appeals was superseded by the supreme court of Tennessee, and Catron returned to the practice of law in Nashville.[26]

Catron's interest in politics, however, continued. He vigorously supported Martin Van Buren for the presidency in the election of 1836, acting as the manager of the Democratic nominee's campaign in Tennessee.[27]

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[22] 8 Yerger 256, 329-331.

[23] *Ibid.*, 337.

[24] It was evidently expected that the Foreman Case would be appealed to the Supreme Court of the United States. On November 2, 1835, Catron wrote to Governor Newton Cannon that such an appeal would be made and suggested that the governor and the legislature ought to engage counsel for the state (*Senate Journal, 1835-36,* pp. 106-109). The appeal was not taken, of course, because the entire question was settled in the same year when the Cherokee agreed to surrender their lands in Tennessee and to move beyond the Mississippi. To conclude, from this case, that Catron was a state's rights man of the Calhoun type, is unwarranted. Like Jackson, he believed in the supremacy and preservation of the Union. He wrote to Jackson early in 1833, urging that the president take decisive action in crushing the nullification movement in South Carolina (Charles Warren, *The Supreme Court in United States History* [Boston, 1923], II, 314). Moreover, when secession became a reality in 1861, Catron remained loyal to the Union.

[25] See acts passed between December 1, 1835, and February 2, 1836 (*Public Acts of Tennessee, 1835-36,* pp. 26-52).

[26] Fleming, *loc. cit.*, 576. It is not known why Catron retired to private practice.

[27] *Ibid.*, 576. See also Laughlin, *loc. cit.*, 77. Even after he became an associate justice of the Supreme Court, Catron openly espoused the cause of Democratic candidates for the presidency. Laughlin states that he supported Van Buren in 1840 and Polk in 1844 (*loc. cit.*, 576). From another source it is known that he and Jackson discussed the question of whether or not Polk ought to retain Tyler's cabinet. See letter of December 18, 1844, from Jackson to William B. Lewis, in *Tennessee Historical Magazine,* III (1917), 146. It is further known that Catron not only supported Buchanan in 1856, but that shortly before the latter's inauguration, the two men secretly exchanged communications regarding the forthcoming decision in the Dred Scott Case (*infra,* 71-72).

Recognition of his services to the Democratic party, as well as of his ability as a judge, soon came to Catron. In response to repeated recommendations by President Jackson, Congress passed the act of March 3, 1837, increasing the membership of the Supreme Court from seven to nine.[28] As one of his last acts in office Jackson appointed Catron to one of the newly established associate justiceships, and the Senate gave its confirmation on March 8.[29]

The years of Catron's service on the court, 1838-65, were of paramount importance in the judicial and political history of the United States. Perhaps during no other period in the history of the nation has the Supreme Court been called upon to settle problems fraught with such consequences as those presented to it during the middle third of the nineteenth century. Nor, perhaps, has it before or since been the object of fearful suspicion and violent sectional attack equal to that directed against it between 1840 and the close of the Civil War. Party fear and opposition were its constant rewards.[30] Corporations and commerce raised perplexing constitutional questions, none the less important because of their novel character. For two decades, moreover, there was an ominous sectional strife, ever increasing in intensity, which culminated in a fratricidal war.

As an associate justice of the Supreme Court Catron gave opinions which followed rather distinctly conceived constitutional precepts. In determining the proper sphere and scope of activity of the federal judiciary, Catron displayed the unmistakable influence of Andrew Jackson as well as the nice regard for state sovereignty typical of a southern Democrat. Corporations were to him inevitable in spite of their inherent evils, and he sought to make them accountable to the federal courts as well as to the states by which they were chartered. Upon questions of commerce he was a vigorous champion of the police power of the states, although he was ready to defend the commerce power of the federal government when the facts appeared to make such a defense clearly proper. In cases involving the inescapable issue of slavery, just as in those relating to the judiciary and to commerce, Catron consistently supported the powers of the states and upheld federal enactments protecting the "peculiar institution." He was not, however, willing to go the full length of accepting the militant doctrines of Calhoun and other southern extremists. Finally, when the sectional strife resolved itself into civil

[28]See *Debates in Congress*, 24 Cong., 1 Sess., XII, pt. 1, pp. 64-65; *ibid.*, 24 Cong., 2 Sess., XIII, pt. 2, p. 2148, and app., 22-23.

[29]Fleming, *loc. cit.*, 576; Warren, *op. cit.*, II, 314, n.

[30]At the very beginning of the period under consideration the court was the object of party distrust. At that time, every one of the nine members, save Story and Thompson, had been appointed by Jackson and Van Buren. The Democratic ascendancy continued until near the close of the Civil War.

war, Catron not only remained loyal to the Union, but also employed the power of his office to preserve it.

Quite early in his career as an associate justice of the Supreme Court, Catron had occasion to express his views regarding the relation between the judicial and executive departments of the federal government. At the first term of the court attended by Catron, that of 1838, the case of Kendall *v.* United States[31] was decided. Certain creditors of the government, in seeking to collect money allegedly owing to them, appealed both to Congress and to the courts. Congress directed the postmaster general to pay them a sum to be determined by the solicitor of the treasury department. When Amos Kendall, the postmaster general, refused to comply with these instructions, the creditors applied to the United States Circuit Court for the District of Columbia for a writ of *mandamus* against him. The writ was duly issued, and Kendall appealed to the Supreme Court. He denied that the circuit court had power to *mandamus* an executive officer of the federal government, and contended that a cabinet officer was responsible only to the president in the performance of his official duties.[32]

Here was plainly a conflict between the executive and judicial departments of the government—a recrudescence of a conflict that had been so pronounced during Jackson's presidency. Kendall himself, moreover, had been originally appointed to the cabinet by Jackson, while a majority of the court owed their selection either to Jackson or to Van Buren. There was, accordingly, ample room for a decision based upon party lines. A majority of the court, however, sustained the power of the circuit court to *mandamus* the postmaster general. Mr. Justice Thompson, in speaking for the court, held that the act to be performed by Kendall, pursuant to the direction of Congress, was ministerial in character rather than executive, and that the cabinet officer was obligated to execute it.[33]

It is interesting to note that Jackson's last three appointees to the court, Chief Justice Roger B. Taney and Associate Justices Catron and Philip P. Barbour, dissented from the majority decision.[34] As for Ca-

[31] 12 Peters 524.

[32] *Ibid.*, 524.

[33] *Ibid.*, 608-627. *Cf.* Marbury *v.* Madison, 1 Cranch 137 (1803). In M'Intyre *v.* Wood, 7 Cranch 504 (1813), and McClung *v.* Silliman, 6 Wheaton 598 (1821), the power of the circuit courts to *mandamus* a federal officer had been denied. Mr. Justice Thompson, however, saw no conflict between these cases and the present one. The earlier cases, he said, applied to circuit courts located within the states, while the Kendall case dealt with the power of the Circuit Court for the District of Columbia. In referring to the latter he said that "it is reasonable to suppose that in organizing a judicial department for this district, all the judicial power necessary for the purposes of government would be vested in the courts of justice" (12 Peters 524, 526, 619).

[34] *Ibid.*, 524, 626, 641, 655. President Van Buren adopted a rather unique course of procedure when, in his message to Congress on December 3, 1838, he boldly attacked the majority opinion in the Kendall case (J. D. Richardson [ed.], *Messages and Papers of the Presidents, III* [Washington, 1903], 503-505).

tron, while he confessed "having an aversion to dissenting opinions, save on constitutional questions," he thought it proper to express his disagreement with the court in the present case. The power to issue writs of *mandamus,* he said, was one of the highest attributes of British sovereignty. "By the act of independence, this prerogative and portion of sovereignty, unimpaired, devolved upon the different States of this Union; and by the Constitution" only so much of it "as was necessary to coerce the courts, officers, and agents of the general government" was delegated by the states to the federal government.[35] This portion of the delegated sovereignty, he thought, "lay dormant until Congress shall act," while "on the Legislature was imposed the duty to give it effect . . . ."[36] An examination of the judiciary acts of 1789 and 1801, by the second of which the circuit courts had been established, revealed to Catron no power on the part of the circuit courts to *mandamus* federal officers. That power, he declared, could "only be maintained to exist by implication, and not by express enactment;" and in conclusion he rejected the doctrine of implied powers as unwarranted by any reasonable construction of the constitution or of the judiciary acts themselves.[37]

If, by the decision in the Kendall case, some persons seemed to see a "Jackson Court" repudiating the doctrines of its chief, they were soon made to realize the error of their surmise. Two years later, in Decatur *v.* Paulding,[38] the court unanimously refused to issue a writ of *mandamus* against the secretary of the navy. In holding that no such writ would issue where the act for which it was requested was executive in character, rather than ministerial, the court dissipated all notions that it had meant to render the executive subordinate to the judiciary. In a separate opinion in this case Catron maintained "that the executive power of this nation, headed by the President" and the cabinet, "acts independently of the courts of justice in paying the public creditors . . . ."[39] He concluded his remarks after the manner of a faithful exponent of frontier democracy. The president, he said, was more appropriately responsible for the disbursement of public funds than were the courts, because he was elected by the people and was directly responsible to them.[40]

Although in the two cases just considered the court had established the principle that executive action in its proper sphere is independent of the judiciary, the converse of that principle remained to be settled. In 1853 the issue was presented in the case of *In re* Thomas Kaine.[41] The case

[35] 13 Peters 607-608.
[36] *Ibid.*, 608.
[37] *Ibid.*, 608-610.
[38] 14 Peters 497.
[39] *Ibid.*, 522. The case arose from the attempt of the widow of a naval captain (deceased) to obtain a double pension.
[40] *Ibid.*, 522.
[41] 14 Howard 103.

involved a treaty between the United States and Great Britain, and the controlling question was whether a treaty depends for its execution solely upon the action of the president, or whether the federal courts might also execute appropriate parts of it independently of the president.[42] In giving the opinion of the majority, Catron insisted that the judiciary, when acting in pursuance of congressional direction, could proceed to perform its appropriate functions in executing treaty stipulations independently of executive instructions.[43] "The people of this country," he said, "could hardly be brought to allow an interference of the President with the Judges in any degree."[44]

The three Supreme Court cases dealt with thus far involved the relation between two departments of the national government. They seem to show that while Catron was a firm supporter of executive action free from judicial interference, when within the former's proper field, he was equally zealous in defending the prerogatives of the judiciary.

Justice Catron was not willing, however, to magnify the powers of the federal courts to a degree that would threaten the sovereignty of the states. The constitutional right of Vermont to participate in foreign affairs presented to the court the question of its power to set aside the executive action of a state. The case of Holmes *v.* Jennison[45] came before the court in 1840, at a time when the relations between the United States and Great Britain were severely strained. Great Britain had resented the efforts made by many Americans to aid the Canadian insurgents in 1837. The boundary dispute between Maine and New Brunswick had precipitated violent clashes between lumbermen of both sections. The *Caroline* affair, moreover, was still unsettled: the state of New York was threatening to hang Alexander McLeod, a British subject, for his murder of an American when the *Caroline* had been seized by British troops. Threats of war were frequent and loud.

In this bellicose atmosphere Governor Silas H. Jennison of Vermont had ordered the arrest and rendition to Canadian officers of George Holmes, a British subject, charged with having committed murder in the Quebec District.[46] When the courts of Vermont sustained the governor's action, Holmes applied to the United States Supreme Court for a writ of *habeas corpus*. He alleged that no state had a constitutional

[42]The case grew out of the application by Kaine, a fugitive from justice, for a writ of *habeas corpus* following his arrest in the United States under the extradition clauses of the Webster-Ashburton Treaty of 1842. His counsel alleged that his arrest and commitment were false inasmuch as they had been accomplished without a direct order from the president.

[43]*Ibid.*, 113, 115.

[44]*Ibid.*, 111.

[45]14 Peters 540.

[46]At the time there was no extradition treaty between the United States and Great Britain, and Governor Jennison's action was voluntary.

right to engage in foreign affairs. Although the court dismissed the case for lack of jurisdiction, the opinions of the justices are instructive. Chief Justice Taney, with whom Justices Joseph Story, John McLean and James M. Wayne concurred, gave an opinion, chiefly an *obiter dictum,* that would have delighted John Marshall. He insisted that the federal government had not only supreme, but also exclusive, control over foreign affairs.[47] Catron, on the other hand, vigorously supported the governor's action. If, he said, there existed between the two nations an extradition treaty, then Vermont would have had no right to surrender the fugitive. But as no such agreement existed, he maintained that the governor had in no way violated the constitution.[48] " . . . that an intent to surrender is equivalent to an agreement between two States . . . is a doctrine calculated to alarm the whole country."[49] It appears, then, that while Catron admitted the supremacy of the federal government in foreign affairs, he believed the states might act on such matters, at least until the national government exercised its constitutional power.[50]

Further evidence of Catron's desire to protect the states against unwarranted interference by the federal courts was furnished in the case of *Ex parte* Dorr,[51] decided in 1845. Here Thomas Dorr, the famous leader of the popular revolt in Rhode Island, sought to obtain judicial sanction of his cause. He had been imprisoned by the "conservative" government of the state, and had applied to the Supreme Court for a writ of *habeas corpus.* The Dorr movement was warmly supported by a considerable element of the Democratic party, and there was, accordingly, the possibility of a partisan decision by the court.[52] The writ, however, was refused by the unanimous decision of the judges. The court was unwilling to disturb the administration of criminal justice by a state, or to interfere in its domestic affairs.[53]

The frontiersman's distrust of large aggregates of business capital, so clearly exhibited in the instance of the Bank of the United States, continued to form an integral part of Catron's social philosophy. When, during the middle years of the nineteenth century, the rise of powerful corporations first seriously engaged the attention of the American public, Catron wished to see all such enterprises brought to a position of

[47] *Ibid.,* 540, 568-579. *Cf.* United States *v.* Rauscher, 119 U. S. 407 (1886).

[48] 14 Peters 596-597.

[49] *Ibid.,* 596.

[50] Compare this doctrine with his views as to the relative powers of the states and of Congress over interstate and foreign commerce. See discussion of License Cases and Passenger Cases, *infra,* 67-69.

[51] 3 Howard 103.

[52] It seems to have been expected that Catron, together with other Democratic members of the court, would decide in favor of issuing the writ (Warren, *op cit.,* II, 460-461).

[53] When the issue of the legitimacy of the Dorr government was again before the court, in Luther *v.* Borden, 7 Howard 1 (1848), Catron was absent.

definite responsibility to the public. As a judge of the nation's highest court he sought to achieve this end by doing his part in extending the jurisdiction of the federal courts and by emphasizing corporate responsibility to the states.

The nature of a corporation for purposes of suit in federal courts was a question of keen interest to the public as well as to the legal profession. Upon its solution depended, to a great extent, the future of the nation's commerce and industry. It was, moreover, a problem that aroused the intense feeling of state's rights men throughout the country. The earlier doctrine of the Supreme Court on the issue had not been completely satisfactory.[54] Chief Justice Marshall had held that upon allegation and proof that all stockholders of a corporation were citizens of the chartering state, federal jurisdiction would lie in suits between such corporation and a citizen of another state.[55] As such common citizenship on the part of all stockholders of a corporation was rare, a more comprehensive basis of federal jurisdiction seemed desirable. Then, too, Marshall himself seems to have been dissatisfied with his own pronouncement.[56]

In 1844 there came to the court the opportunity to settle the question along broader lines. In the case of the Louisville, Cincinnati and Charleston Railroad Company *v.* Leston,[57] the court laid down the doctrine of conclusive presumption. For purposes of suit in a federal court, on the grounds of the diversity of citizenship on the part of the litigants, a corporation would be regarded as a citizen of the state by which it was chartered. The court announced the rule that where a suit was instituted in a federal court, by and in the name of a corporation against a citizen of a state other than the one issuing the charter, it would be conclusively presumed by the court that all members of that corporation were citizens of the chartering state, notwithstanding averment or evidence to the contrary.[58] While Catron concurred in this decision, his views on the subject were not definitely expressed until afterward.

The full significance of the decision in the Leston Case seems to have escaped the state's rights members of the court at the time. Not until

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[54]See Curtis *v.* Strawbridge, 3 Cranch 267 (1806); Bank of the United States *v.* Deveaux, 5 Cranch 61 (1809); Commercial and Railroad Bank of Vicksburg *v.* Slocomb, 14 Peters 60 (1840).

[55]Bank of the United States *v.* Deveaux, 5 Cranch 61 (1809).

[56]See the opinion of Justice Wayne in the Leston Case. He said, referring to the earlier cases decided by Marshall: "It is within the knowledge of several of us, that he repeatedly expressed regret that those decisions had been made . . ." (2 Howard 497, 555).

[57]*Ibid.*, 497.

[58]On the necessity of such averment as a basis of conclusive presumption, see Piquignot *v.* Pennsylvania Railroad Company, 16 Howard 104 (1854). Its absence was held to be fatal to the jurisdiction of the court.

the question again came before the court nearly a decade later did they voice their dissent. Nor until then did Catron seem fully to realize the implications of the doctrine he had upheld. When, in 1852 and 1853, the cases of Rundle *et al. v.* Delaware and Raritan Canal Company and Marshall *v.* Baltimore and Ohio Railroad Company[59] revived the question, Justices Catron, Daniel, and Campbell took occasion to make their positions on the matter clear. All three were uncompromising foes of corporations as well as staunch defenders of the rights of the states. While Daniel and Campbell bitterly attacked federal jurisdiction in corporation cases as an unwarranted usurpation of the state prerogatives,[60] Catron propounded an intermediate and practical thesis. It was not his view, he said, nor had it ever been his belief, that the entire body of stockholders of a corporation could be regarded collectively as a citizen.[61] On the contrary he thought that only the president and directors of a corporation "are the true parties that sue and are sued as trustees and representatives of the constantly changing stockholders."[62] For purposes of suit, he said, these officers ought to be available to litigants, while for purposes of responsibility they ought to be amenable to the law for the conduct of the entire corporation.[63] He believed, moreover, that if the president and directors of a corporation were citizens of the chartering state, then the federal courts were warranted in assuming jurisdiction over suits between them and a citizen of another state.[64] Catron then went on to point out that federal jurisdiction in such cases was not only constitutional but that it was also desirable as a means of insuring justice. Federal courts, he said, were not so easily corrupted by sinister corporations as were state courts. If the latter tribunals heard these cases, unfortunate litigants suing corporations would "be compelled to submit their rights to judges and juries who are inhabitants of the cities where the suit must be tried, and to contend with powerful corporations, in local courts, where the chances of impartial justice would be greatly

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[59] 14 Howard 80 and 16 Howard 314.

[60] For the opinions of Daniel in these two cases, see 14 Howard 80, 98-101 and 16 Howard, 314, 338-347; for that of Campbell, 16 Howard 314, 347. Campbell was absent when the decision in the Rundle Case was given.

[61] 14 Howard 80, 95 and 16 Howard 314, 338.

[62] 14 Howard 80, 95. See also 16 Howard 314, 338.

[63] 14 Howard 80, 95 and 16 Howard 314, 338.

[64] 14 Howard 80, 95.

against them; and where no prudent man would engage with such an antagonist, if he could help it."[65]

Of no less importance than the question of corporate citizenship was that of special privileges of corporations in relation to the popular will of a state.[66] Three cases from Ohio raised the issue of whether a privilege granted to a corporation in its charter by a state legislature was a contract, and, if so, whether such privileges could be subsequently revoked by the state. In Piqua Branch of the State Bank of Ohio *v.* Knoop,[67] decided by the Supreme Court in 1854, this delicate question was settled. In 1845 the legislature of Ohio had issued a banking charter to the plaintiff in error, and the act of incorporation had specified that the bank should enjoy exemption from certain taxes. Six years later the legislature had passed an act imposing these taxes on the bank.[68]

A majority of the court held that the terms of the charter constituted a contract between the state and the bank, and that the act of 1851 was accordingly void. Catron, together with Daniel and Campbell, vigorously dissented. He maintained that "the sovereign political power is not the subject of contract so as to be vested in an irrepealable charter of incorporation, and taken away from, and placed beyond the reach of, future legislatures; that the taxing power is a political power of the highest class, and each successive legislature . . . is authorized to impose taxes on all property in the State that its constitution does not except."[69]

Not only did Catron exalt the sovereign character of the popular will, but it is clear from his opinion in Ohio Life Insurance and Trust Company *v.* Debolt[70] that he also viewed with alarm the rapid growth of corporations. In this case, decided at the 1854 term, the court held that where a charter contained no express exemption from taxation none could be implied. Catron, however, took occasion to say:

> When I take into consideration . . . the unparalleled increase of corporations throughout the Union within the last few years; the ease with which charters, containing exclusive privileges and exemptions are obtained; the vast amount

[65] *Ibid.*, 95. This argument in favor of federal jurisdiction had been advanced by John Quincy Adams in 1809 when he argued the case of Hope Insurance Company *v.* Boardman. He said: "If there was a probability that an individual citizen of a state could influence the state courts in his favor, how much stronger is the probability that they could be influenced in favor of a powerful moneyed institution which might be composed of the most influential characters in the state" (5 Cranch 57, 59). Catron's fear of the influence corporations might exert on state governments was not unfounded. The case of Marshall *v.* Baltimore and Ohio Railroad Company was itself one in which a lobbyist was attempting to collect his fee.

[66] In 1839 the court held that although a corporation chartered by one state could not do business in another state without the consent of the latter, the absence of any prohibition or restrictions against foreign corporations was to be regarded as consent for it to operate (Bank of Augusta *v.* Earle; Bank of the United States *v.* Primrose; New Orleans and Carrollton Railroad Company *v.* Earle, 13 Peters 519 [1839]).

[67] 16 Howard 369.

[68] *Ibid.*, 377-378.

[69] *Ibid.*, 404.

[70] *Ibid.*, 426.

> of property, power, and exclusive benefits, prejudicial to other classes of society that are vested in and held by these numerous bodies of associated wealth, I can not but feel the grave importance of being called on to sanction the conclusion that they . . . stand above the state government creating them.[71]

The final case of this group was that of Dodge *v.* Woolsey,[72] decided in 1856. After the Piqua Branch Bank Case there was attached to the constitution of Ohio an amendment specifically repealing all prior legislative exemption from taxation. The court held, however, that even this amendment, like the act of 1851, was unconstitutional because it impaired the obligation of a contract. Catron and Daniel concurred with the dissenting opinion of Campbell, in which the last named justice vehemently denounced the majority decision.[73]

The scrupulous respect with which Catron viewed state power over corporations likewise characterized his opinions in matters relating to commerce. The division between the states and the federal government of the power over interstate and foreign commerce is a question that forms an important chapter in American constitutional history. It is a question that has recurred frequently and in many forms, and it has not been an easy one to settle. Added to the legal difficulties inherent in the issue was the fact that before the Civil War it was intimately connected with the delicate and volcanic question of slavery. Three notable cases involving the relative powers of the state and federal governments over the important matter of commerce were decided by the Supreme Court between 1847 and 1852. While before this time the court had studiously avoided making a categorical declaration on the subject,[74] it was ultimately forced to commit itself in definite language.

The License Cases,[75] as the first of this group, involved the right of a state to regulate the importation of liquor from abroad as well as from a neighboring state. While six of the judges upheld the constitutionality of the state license laws in question, their reasoning was so diverse that no final settlement of the issue resulted.

Catron, however, rendered a fairly definite and typical opinion. In addressing himself first to the question of interstate commerce, he held "that the police power was not touched by the Constitution, but left to the States as the Constitution found it." Accordingly, "whenever a thing . . . is of a description to be regulated by that power in the State, then the regulation may be made by the State, and Congress can not interfere."[76] He believed, however, that before an article could be so

[71] *Ibid.*, 442-443.
[72] 18 Howard 331.
[73] *Ibid.*, 361, 380.
[74] See Groves *v.* Slaughter, 15 Peters 449 (1841).
[75] 5 Howard 504 (1847).
[76] *Ibid.*, 599-600.

classed it must be established that it is "not a commercial article"; otherwise it would fall "within the jurisdiction of the United States."[77] But granting this distinction, Catron went on to ask "whether the States have power to regulate their own mode of commerce" among each other "during the time the power of Congress lies dormant, and has not been exercised in regard to such commerce."[78] After carefully examining the decisions of the court in earlier cases,[79] he answered this question in the affirmative. Local and state regulations of commerce made prior to the framing of the constitution, he said, were left in force by that document. Had its framers really intended to exclude the states from this field of legislation, he believed they would have written into the constitution such a prohibitory clause.[80] He thought, moreover, that practical considerations not only sustained this view but at the same time rendered exclusive congressional control of commerce impossible. " . . . so minute and complicated are the wants of commerce" that it "would be next to impossible in practice" for Congress "to deal with the subject" exclusively.[81] He believed, too, that for the court now to declare invalid the great mass of local regulations over commerce, built up over a sixty-year period and without opposition from Congress, would disrupt the nation's commerce and throw the whole subject of regulatory law into confusion. To do so would "expunge more State laws and city corporate regulations than Congress is likely to make in a century on the same subject. . . ."[82]

It may be concluded, then, that while Catron recognized the constitutional supremacy of congressional regulation of interstate commerce, he did not thereby regard this power of Congress as exclusive.

When it came to the subject of foreign commerce, his views were equally clear. Although he admitted that Congress had control over and would protect legitimate foreign imports, he yet maintained that an article ceased to be a protected import the moment it was resold or divided into quantities smaller than the original parcel. Under these conditions, as with the liquor in question, an article ceased to be one over which Congress or the federal government had power, and immediately became a proper and legitimate object of state regulation.[83]

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[77] *Ibid.*, 600. This limitation upon the police power, he said, was necessary, because without it "the police power would not only be a formidable rival, but . . . must necessarily triumph over the commercial power of the federal government."

[78] *Ibid.*, 601.

[79] These cases were Gibbons *v.* Ogden, 9 Wheaton 1 (1824); Brown *v.* Maryland, 12 Wheaton 419 (1827); and Wilson *v.* Blackbird Creek Marsh Company, 2 Peters 245 (1829).

[80] 5 Howard 504, 606-607.

[81] *Ibid.*, 606.

[82] *Ibid.*, 607. *Cf.* Catron's views with the decision in Leisy *v.* Hardin, 135 U. S. 100; 34 L. Ed. 128 (1890), and with the opinion of Mr. Justice (now Chief Justice) Hughes in the Minnesota Rate Cases, 230 U. S. 352, 399-402; 57 L. Ed. 1511 (1913).

[83] 5 Howard 610.

Although Catron was unwilling totally to exclude the states from the field of interstate and foreign commerce, he was, nevertheless, ready to uphold congressional supremacy in this sphere of legislation. In the Passenger Cases,[84] decided in 1849, the court held certain state laws to be unconstitutional because they were in conflict with congressional legislation on commerce. New York and Massachusetts had sought to check the flood of immigration across their borders by requiring the owners, masters, or agents of vessels bringing immigrants to those states to pay a specified tax on each such immigrant. While the court was called upon to decide the constitutionality of these statutes, the issue was made exceedingly delicate by its relation to slavery.[85]

The decision of the court was in the nature of a compromise between the opinions of various of the judges. While McLean and Wayne insisted upon the exclusiveness of congressional control over commerce, the other judges composing the majority were content to invalidate the state laws on grounds of conflict with acts of Congress. Catron concurred with the latter view. He held that where a state law was passed as a revenue act relating to interstate and foreign commerce, it was thereby regulatory of a definite species of such commerce, and that where such law was in conflict with a congressional enactment, the former must yield to the latter.[86]

While in the License Cases and Passenger Cases the court recognized both state and congressional regulation of commerce, it did not undertake to define categorically the boundaries of state regulation. In Cooley *v.* The Wardens of the Port of Philadelphia,[87] however, it essayed to lay down the principles upon which the division of the commerce power should be determined. Catron here concurred with the majority opinion that where uniform regulation is necessary, Congress has supreme and exclusive power over commerce, while the states may enact local regulations on subjects without the congressional domain. Catron's opinion here, as in the two preceding cases, appears to have emanated from the fundamental conception of divided sovereignty, even though it did not make that conception completely articulate.

Although the slavery controversy was primarily a political issue, it was nevertheless one from which the Supreme Court could not escape.

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[84]7 Howard 283.

[85]The southern states, led by South Carolina, had enacted Negro seamen laws requiring masters of incoming vessels to post with the state authorities a bond for each free negro on board. If the court should hold the New York and Massachusetts statutes to be repugnant to the constitution *per se,* there could be little doubt that the Negro seamen laws were also unconstitutional. See, with respect to certain aspects of these laws, Philip M. Hamer, "Great Britain, the United States, and the Negro Seamen Acts, 1822-1848," and "British Consuls and the Negro Seamen Acts, 1850-1860," in *The Journal of Southern History,* I (1935), 3-28; 138-167.

[86]7 Howard 283, 439-444, 448-449.

[87]12 Howard 299 (1852).

As both statutes and constitutional principles were involved, slavery became a subject of judicial cognizance, and the court frequently faced cases arising from the inflammable issue in spite of its apparent reluctance to participate in the contest.

Whenever cases arose involving the question of fugitive slaves, Catron upheld the supremacy of federal laws on the subject,[88] although here, as in matters of commerce, he usually recognized the right of a state to exercise supplementary and concurrent power. The cases of Morris *v.* Crocker[89] and Moore *v.* Illinois[90] are illustrative. In the former Catron gave the opinion of the court, holding that although the fugitive slave law of 1793 had been constitutional, it was superseded by the act of 1850. Accordingly, he said, all rights of action for damages or loss under the earlier act ceased with the passage of the 1850 statute, even though action under it was pending when the latter act was passed. In the second of these cases, Catron concurred with the majority in holding that state laws relating to fugitive slaves were valid, provided they were enacted pursuant to the police power of the state and did not conflict with or impede the execution of federal laws on the same subject. The rigid doctrine of the Prigg case, that congressional power on the topic of fugitive slaves was exclusive,[91] was thus somewhat modified in favor of the states.

Of far greater importance than the issue of fugitive slave laws, however, was the question of the power of Congress to regulate slavery in the territories. It was, of course, on this point that the court became embroiled in the bitter sectional controversy by committing itself to the doctrines of the southern extremists. When the court passed upon this delicate issue, Catron concurred with the opinion of his pro-southern brethren, although it is significant that he did not share their extreme views.

While the Dred Scott Case ranks foremost among those cases relating to the power of Congress over slavery in the territories, it had an interesting antecedent in Strader *v.* Graham,[92] decided in 1850. The question here was, "Whether slaves who had been permitted by their master to pass occasionally from Kentucky into Ohio acquired thereby a right to freedom after their return to Kentucky."[93] The general issue was quite

[88]Catron apparently concurred with the majority opinion in the famous case of Prigg *v.* Pennsylvania, 16 Peters 539 (1842), where it was not only held that the fugitive slave act of 1793 was constitutional, but that the power of Congress over the subject was such as to invalidate all state laws on it, even those in support of congressional enactments. In view of his opinions on matters of commerce, however, it seems peculiar that he should have shared such a view.

[89]13 Howard 429 (1851).

[90]14 Howard 13 (1852).

[91]See n. 88.

[92]10 Howard 82.

[93]*Ibid.*, 82.

clearly similar to that involved seven years later in the Dred Scott Case. The court held that, as the laws of Kentucky governed "the domestic and social condition of the persons domiciled within its territory," it had no jurisdiction over the case. While Catron concurred with this ruling, he devoted his opinion to showing that the ordinance of 1787 did not, as had been urged in the arguments, confer upon the court jurisdiction in the case, or operate as a bar to the right of Kentucky to determine the status of persons within its limits.[94] In thus confining its remarks to the legal point at issue, the court managed to hold itself aloof from the foremost constitutional question of the day.

When, however, the court did presume to settle the controversy, Catron played a rather odd role in the events immediately preceding the decision. The Dred Scott Case was being considered by the court shortly before James Buchanan was to be inaugurated as president. The president-elect was anxious to be able to announce in his inaugural address that the whole question of congressional authority over slavery in the territories was to be settled by the forthcoming opinion of the court. Accordingly, he sought to obtain authentic advance information as to whether the court would give an opinion on that phase of the question, and to accomplish this end he exchanged secret communications with Catron in February of 1857.[95] Catron kept Buchanan well posted as to the opinion the court might be expected to give, as well as to the probable time it would be announced.[96]

It is interesting to observe that in one of his notes to Buchanan, Catron summarized his own forthcoming opinion in the Dred Scott Case, and in doing so he explained his position more clearly than he did in his later official opinion.[97] He said that he had no doubt that ordinarily Congress possessed the constitutional "power to govern the territories," not only by virtue of the language of the constitution itself, but also because the

[94] *Ibid.*, 98-99.

[95] It is not surprising that Buchanan called upon Catron, rather than some other member of the court, for the information he desired, for it appears that Catron had gone to unusual lengths to support Buchanan for the presidency. During the campaign of 1856, Catron seems to have tried to show that Jackson had favored Buchanan for the office in 1844. This allegation brought forth vehement denials from other former Jackson men, who branded the claim as false and denounced Catron as a "wirepuller". See letter from A. J. Donelson to his son, September 27, 1856, and that from Francis P. Blair to A. J. Donelson, October 26, 1856, in *Tennessee Historical Magazine,* III (1917), 289-290, 291. The truth of the matter seems to be that some years earlier Catron himself had stated that Jackson insured Polk's election in 1844 by securing the withdrawal of Tyler from the contest (John Spencer Bassett, *The Life of Andrew Jackson,* [New York, 1928], II, 746).

[96] See letters of February 6, 10 and 19, 1857, from Catron to Buchanan, in Philip Auchampaugh, "James Buchanan, the Court and the Dred Scott Case," in *Tennessee Historical Magazine,* IX (1926), 234-238.

[97] See letter of February 10, cited above. Subsequent material on this topic is taken from this letter, unless other sources are indicated.

court had so held earlier.[98] He went on to say, however, that as regarded the Louisiana Purchase, he believed the Missouri Compromise to have been unconstitutional because it had been contrary to the express terms of Article III of the treaty of 1803. The article in question provided, among other things, that the inhabitants of the ceded area should be protected in the full enjoyment of their property, pending the admission of the territory into the Union.[99] As to the operation of these terms, in relation to the power of Congress to legislate upon slavery in the territory, Catron wrote:

> I read this third article of the treaty, that *all* the inhabitants of *all* the ceded country, were to be protected in their property, of whatsoever description the property, (in 1803) was, during all the *"meantime"* between the date of the Treaty, and the time when the acquired Territory was admitted into the Union.
>
> As to the original Inhabitants and their descendants can it be otherwise? And is it not a true and fair construction that where the filling of vacant country was contemplated before new States could be admitted, that both [parties?] to the treaty desired to provide for immigration so that they should be equals with the original inhabitants. If this be so, then (I think) the treaty settles the controversy.

From this letter it seems that Catron was not disposed to enter upon any abstract analysis of the ordinary powers of Congress. Rather, he was content to base his opinion upon practical and more or less non-controversial considerations. He seemed satisfied that the terms of the treaty of cession imposed upon Congress an irrevocable obligation which *per se* precluded the constitutionality of the Missouri Compromise.

Catron's official opinion in the Dred Scott Case followed rather closely the line of argument he had laid before Buchanan. He reiterated his belief that Congress ordinarily had power to exclude slavery from the territories. "My opinion is," he said, "that Congress is vested with the power to govern the Territories of the United States by force of the third section of the fourth article of the Constitution."[100] Again, however, he went on to say that by the terms of the treaty of 1803, Congress had never enjoyed the power to enact the Missouri Compromise.[101]

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[98]Catron referred to the case of Cross *v.* Harrison, 16 Howard 164 (1853), where the court had held that the federal government had rightful power to collect import duties at the port of San Francisco between the time of conquest of the area and the admission of California as a state, because Congress had power by the constitution to make all needful rules and regulations respecting the territories. See also American Insurance Company *v.* Canter, 1 Peters 511 (1828), and United States *v.* Gratiot, 14 Peters 526 (1840).

[99]Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America* (Washington, 1931), II, 501.

[100]19 Howard 393, 519-520.

[101]*Ibid.*, 524-526. It seems not to have occurred to Catron that an act of Congress may abrogate or supersede a treaty—a doctrine that was later sanctioned by the court. See Head Money Cases, 112 U. S. 580 (1884); Whitney *v.* Robertson, 124 U. S. 190 (1888); Chinese Exclusion Cases, 130 U. S. 581 (1889).

Some portions of Catron's opinion, if taken by themselves, might easily be misconstrued. For example, he insisted upon "that great fundamental condition of the Union—the equality of the States," maintaining that the federal territories were "the common property of all the States united. . . ." Consequently, he said, by virtue of the privileges and immunities clause of the constitution, any citizen of any state had a constitutional right to occupy the territories and to enjoy in them full property rights. Congress, therefore, had no power to forbid the introduction of slave property into any portion of the federal domain; otherwise, "Just as well might Congress have said to those of the North, you shall not introduce into the territory south of said line 36° 30′ your cattle or horses. . . ."[102] This language might appear to indicate that Catron entertained the views of John C. Calhoun and of Jefferson Davis. Such, however, was not the case. What Catron meant, when he set down the excerpts just quoted, was simply that as regards the entire Louisiana Territory, Congress, because of the conditions stipulated in the treaty, had no power to exclude any species of property, slave or otherwise.[103]

The Dred Scott Case was the last significant constitutional case decided by the court before the outbreak of the Civil War. It was, accordingly, the final occasion upon which Catron expressed an important constitutional opinion.

When the war began, Catron's fundamental concept of nationalism, frequently obscured by the tenor of his many state's rights opinions, asserted itself. He unhesitatingly took his stand with those who sought to preserve the Union, and did all in his power as an associate justice of the Supreme Court to aid that cause.[104] The war, of course, gave rise to many novel and perplexing constitutional issues, some of which reached the court after the conflict was over. Ere then, Catron was dead.

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[102]19 Howard 393, 527.

[103]It is unfortunate that Catron employed language so susceptible to misinterpretation. It seems impossible, however, that he meant to deny categorically the usual power of Congress to legislate upon slavery in the territories, because, as has been seen, he twice declared that such power did ordinarily rest with Congress. Almost his entire opinion, moreover, dealt with the operation of the treaty of 1803, although in some portions of it he failed to make that point clear.

[104]See, especially, the Prize Cases, 2 Black 635 (1863), and *Ex parte* Vallandigham, 1 Wallace 243 (1864).

THE FLOOD OF MARCH, 1867, IN THE TENNESSEE RIVER*

By David E. Donley

Sixty-eight years ago there occurred the most disastrous flood that has visited the Tennessee Valley since its settlement by the white man. The keeping of systematic records of river stages, rainfall, and other meteorological data had not yet been inaugurated in this area, so that the story of events leading up to this flood and of the great damage caused by it have had to be pieced together from various sources. Much of these data were brought to light by research carried on by the flood section, project planning division, of the Tennessee Valley Authority. Such research covered newspaper files, histories, government reports, and interviews with a considerable number of the so-called "oldest inhabitants." All of the data so collected have been studied and this paper has been prepared as a digest of these data.

The winter of 1866-67 was a cold winter in Tennessee and western North Carolina. A record of the snowfall at Clarksville, Tennessee, kept by Professor William M. Stewart,[1] shows that the snowfall of this winter was greatly in excess of that of the winters immediately preceding or following it. These records show that a total of 27.75 inches fell between December 1 and the end of March. Since Clarksville is located in Middle Tennessee, it is logical to assume that the snowfall was much heavier in East Tennessee and western North Carolina where elevations are much more severe. Lack of reports for these sections, however, prevents the verification of this assumption.

A journal[2] kept by James S. Ballance at the Shaker colony, Pleasant Hill, Mercer county, Kentucky, contains the following entry: "Tuesday, March 5, 1867—This morning we had the deepest snow I ever knew to fall in Kentucky and I have been journaling near 50 years. It measured 19½ inches on a level .... If we could have measured all that fell it might have been 24 inches in depth. It made 1¾ inches of water."

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*Presented at a meeting of The East Tennessee Historical Society in Knoxville, April 5, 1935.

[1]J. B. Killebrew, *Introduction to the Resources of Tennessee* [First and Second *Reports* of Bureau of Agriculture for the State of Tennessee] (Nashville, 1874), 11.

[2]Original journals of the Shaker colony are now in the Filson Club Library, Louisville, Kentucky.

Despite all the snow of that year, the latter part of February was warm, and indications are that the warm period lasted for at least a week. It undoubtedly lasted long enough to melt most of the snow in the mountains and to raise the general level of the streams, in addition to causing a high degree of saturation to the ground. Then on Saturday night, March 2, it began to rain, not only to rain, but to rain intensely. The following newspaper extract gives a very graphic account of what happened:

> On the night of the second, storms came and such storms: All will remember that the rain fell in torrents, the lightning flashed, and the thunders clashed, and from Saturday night; Sunday and Sunday night; Monday and Monday night; Tuesday and Tuesday night; Wednesday and Wednesday night; up to Thursday morning, the rain continued to fall and floods continued to follow.[3]

While the storm was raging in Knoxville, falling weather characterized some other parts of the Ohio Valley. River news from Nashville[4] related that Friday, March 1, was fair and warm, but that hard rains fell Friday night; the temperature dropped so low on Saturday that fires became a necessity by that night. By Monday afternoon the rain had turned to pelting sleet and the temperature there had dropped lower than it had been for weeks.

Telegraphic reports received in Nashville on Monday, March 4,[5] showed that snow had fallen either the night before or during that morning at Louisville, Vincennes, St. Louis, Indianapolis, Maysville, Cincinnati, Marietta, Parkersburg, Wheeling, and Pittsburgh. The amounts had ranged from very light at St. Louis to over five inches at Louisville. No reports are available for western North Carolina, but snow was reported as far east as New York and Philadelphia. The few temperature reports for that day showed still further drops in temperature with near freezing by noon, and still growing colder.

Tuesday, March 5, was reported at Nashville as "A cold leaden day, raw and disagreeable during daylight, with rain pouring down again before midnight." Maysville, Indiana; Parkersburg, West Virginia; Portsmouth, Ironton, and Gallipolis, Ohio, all reported snow on the ground ranging from four to ten inches. The fairly mild temperatures made the snow compact and heavy.

Not very much is known of weather conditions on Wednesday, March 6. Rain continued to fall in Knoxville. Freezing temperatures were reported from the Ohio Valley, but these do not indicate necessarily that similar temperatures occurred in the Great Smoky Mountains. Indica-

[3]Reprinted in the Nashville *Union and Dispatch* from the Knoxville *Commercial* of March 8, 1867.

[4]Nashville *Union and Dispatch*, March 3. 1867. It is unfortunate that actual temperature records are not available for that period, but none have been found.

[5]*Ibid.*, March 5, 1867.

tions are, however, that the very heavy downpour of rain melted snows lying in that region from previous storms, and thus added greatly to the flood conditions. The area of heavy rainfall is known to have covered the whole upper Tennessee Valley from Lynchburg to Chattanooga.

Before the rain ceased floods began. These naturally started in the upper valley region. Trains were blockaded at Marion, Virginia.[6] Bridges began to go out on all the tributary streams and railroad cuts were often filled by sliding earth and rock. Past Watauga, houses, machinery, flatboats laden with various products, household and kitchen furniture, bed clothing, and the like, whirled along the crest of the flood with great rapidity. All but two grist mills between Jonesboro and Elizabethton were swept away. The bridge across the Holston at Union was carried away. Practically all the houses close to the various upper tributaries were destroyed. Buildings were picked up and tossed about as if they had been toy sailboats. Six men were reported drowned at Kingsport and undoubtedly many more perished along the various streams.

As the flood proceeded down the rivers, destruction continued with it and increased as the flood rose higher and higher. The new bridge across the Holston at Strawberry Plains was carried away.[7] At Knoxville[8] over 100 persons were washed out of their homes. The bridges connecting East and West Knoxville were all impassable. The Main Street bridge had floated away; the Cumberland Street bridge was saved only by removing all the planks and flooring; the county bridge, which had been built by General A. E. Burnside during the recent siege of Knoxville, was carried away. Gasper S. Davis, who operated a sash and blind factory, lost his shop and all the machinery. Marshall Coker, a lumberman, lost about 300,000 feet of lumber. The old warehouse attached to Park's Mill was swept away, as was also the old feed store near the slaughter house. The crest was reached at Knoxville at 4:30 P.M., Saturday, March 8. It was reported as being forty-two feet above low water mark, or nine feet higher than ever known before. Williams Island was covered and a considerable stock of cattle thereon was washed away. Large quantities of corn were in storage warehouses along the river awaiting high water for shipment. It is known that at least 100,000 bushels of this were swept away.

At Loudon the water was forty-five feet above low water mark and within six feet of the lower chord of the bridge. At least fifteen build-

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[6] *Ibid.*, March 10, 23, 1867.

[7] A few miles above Knoxville the Holston and French Broad rivers converge. From the junction point on to the Ohio the stream is known as the Tennessee River.

[8] Nashville *Union and Dispatch*, March 14, 1867.

ings were swept away and cattle, hogs, sheep, and other livestock were seen in the drift near the town.[9]

While these events were happening in Knoxville, Chattanooga little dreamed of dire disaster. It must be remembered that this flood happened before the days of the telephone and that telegraph service then was meager and made use of almost entirely by the railroads. Automobiles had been scarcely visioned at that time. Chattanooga was about three to five days of travel time from Knoxville, overland or by water. Such prevented news of Knoxville's calamity reaching Chattanooga ahead of the flood.

At Chattanooga the water rose suddenly. Nearly everybody had retired for the night and there was no apprehension of danger from the flood. About midnight President Courtney, of the New Orleans, Mobile, and Chattanooga Railroad, and the other guests of the Crutchfield House, were aroused from their slumbers by the report that water was coming into the building. When they went downstairs, the floor was covered to a depth of five feet. All that portion of the town was submerged; very little perishable property was saved. That was on Friday night, March 8.[10]

By Saturday night, March 9, there were from four to eight feet of water on all the streets and the water was still rising. Residents in the suburbs had been forced to take to the roofs of their houses on Friday night; there they remained until rescued by boats on Saturday. The water continued to rise until Monday morning, March 11. At that time it was at 58.6 feet on the present gage, or the highest on record.[11]

About Friday, some persons began leaving Chattanooga and going to high ground on Missionary Ridge and Lookout Mountain. For example, a number of the lady boarders at the Crutchfield House moved to the camp of the 25th Infantry on Seminary Hill early on Friday.[12]

The water extended across Chattanooga from Cherry Street on the east to Pine Street on the west, a distance of nearly half a mile. The only part of the city out of water was the hill on the east side running north and south and the high grounds known as Cameron Hill and Seminary Hill. The water, as early as Saturday, March 9, was about four feet deep in the postoffice and still rising. Market Street was submerged. Locomotives standing on the track in the depot yard were covered and only their smokestacks were visible. Only one section of the Market Street bridge was saved and this was tied to the riverbank above Market Street. The flood was up over the eaves of most of the houses in Harri-

[9] *Ibid.*, March 23, 1867, reprinted from Knoxville *Commercial*, March 13, 1867.
[10] *Republican Banner* (Nashville), March 14, 1867.
[11] *American Union* (Chattanooga), March 12, 1867.
[12] *Ibid.*, March 10, 1867.

son and the inhabitants went to Seminary Hill. Backwater extended up Lookout Valley to a point well beyond the Georgia state line. Water stood five feet deep in the Union Passenger Station. Steamboats came up Market Street as far as Fifth Street and could have gone as far up as Ninth had it not been for the danger of floating buildings from their foundations. Nearly every building on the riverbank below Cameron Hill had been swept away.[13]

A local newspaper listed a few of the estimated damages at Chattanooga as follows:

> W. Crutchfield and Company set their losses at about $1,500. The greater part of their stock was seriously damaged and some of it will prove an entire loss.
>
> J. H. Warner and Company have lost not less than $6,000. Their stock was all new and was of a kind most easily injured by water. L. Murrin estimates his losses at $4,500.
>
> A large barn was carried off by the current and deposited at a place a quarter of a mile distant from its original location, while a dwelling house was carried from one hill across a valley and left on the side of the opposite hill, on the spot where a log house formerly stood, the latter having departed for parts unknown.
>
> A wing of the house occupied by Mayor Johnson, at Chestnut and Sixth Streets, was floated off during the flood and found stranded on the Commons at Eighth and Pine Streets. Scarcely anything was left of it but the roof and floor.
>
> The losses sustained by the Railroad Company were very heavy. In the city the tracks were all washed very badly; platform cars floated off the trucks, went sailing downstream or were piled up in all sorts of ways and places. Engines left on the tracks or in the shops were covered as high as the boilers. Numbers of cars were loaded with dry goods, groceries, hardware, and miscellaneous freight, which proved almost a total loss.[14]

Damage by the river did not cease at Chattanooga, but continued as the flood passed downstream. The river reached a crest at Bridgeport, Alabama, on March 12 and was 11.5 feet above all former marks. The bridge at that point was washed away.

Stevenson, Alabama, was completely surrounded by water. Two bridges, each of 100-foot span, between Bass and Stevenson, were carried away.[15]

The river completely submerged Johnsonville, Tennessee, and the inhabitants were forced to flee to the neighboring hills for safety. The water was from ten to fifteen feet deep in every street in town. Such a flood had never been known there. The river was nearly ten miles wide at that point.[16]

Smithland, Kentucky, at the mouth of the Cumberland River and but a few miles from the mouth of the Tennessee, was completely inundated and great suffering was caused among the inhabitants.[17]

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[13] *Ibid.*, March 14, 1867.
[14] *Ibid.*, March 14, 1867.
[15] *Republican Banner* (Nashville), March 12, 1867.
[16] *Ibid.*, March 19, 1867.
[17] *Ibid.*, March 17, 1867.

The flood, however, furnished comedy as well as tragedy. Among its most amusing incidents was a trip taken on the Tennessee River by the steamer *Cherokee* with Captain Woods Wilson in command. The steamer left Chattanooga at 8:00 o'clock on the evening of March 8, 1867, and headed upstream. There was no freight to haul, due to the height of the waters, but the crew wanted a look at the rising river upstream. The vessel traveled upstream all night, hugging the banks and taking advantage of as much backwater as could be found. Débris littered the channel, and water covered the lowlands as far as the eye could reach. A number of narrow escapes occurred when the boat rounded some of the bends and struck strong downstream currents. Several times it was almost dashed into the rocky bluffs along the banks. The *Cherokee's* destination, Loudon, was reached late the following day, or about twenty-four hours after leaving Chattanooga, and the night was spent at that point.

All river traffic had been suspended. The *Cherokee* started the return trip to Chattanooga on the morning of March 10. Traveling conditions were very different on the trip downstream. Instead of having to stem the current, the *Cherokee* now had the advantage of the swift downstream current. Within a few hours, a point opposite Washington, Tennessee,[18] was reached, and, because of the wide backwater area extending even beyond this village, it was decided to visit it for breakfast. The *Cherokee* located the wide highway leading from Robinson's Ferry and steamed along this road, in order to avoid hitting stumps and other obstructions. The distance from the river's channel to Washington, about one and a half miles, was soon covered. The boat tied up at the corner of Rural and Main streets and the crew had breakfast at the local hotel. After breakfast, Captain Wilson took several of the leading citizens aboard for a ride around the town in the *Cherokee*. After the completion of the visit, the trip was resumed to Chattanooga, which was reached early in the afternoon. Captain Wilson offered his boat for use in rescue work and steamed up Market Street as far as Fifth to look for marooned residents. There he was halted by the mayor, fearing that the waves set up by the boat might overturn the partly submerged houses.

The next morning, March 11, the *Cherokee* took aboard a large party of travelers who had been stranded in Chattanooga by the flood, and started downstream for Decatur, Alabama. Just below Chattanooga the Tennessee River enters the gorge section extending through the mountains. There the channel is narrow, and tortuous; the stream is very swift; and rocky bluffs extend along both sides of the river for a considerable distance. No boat had ever gone through this reach on the

[18]Washington has since disappeared as a settled community.

crest of such a flood, hence no one knew the dangers and difficulties to be encountered on such a trip. How the *Cherokee* successfully negotiated all the numerous hazards was afterwards related by a member of the crew:

> With the river up some seventy to one hundred feet above normal in the mountain gap, the trip through the gorge was something that pen cannot describe. Streams pitching from cliffs and sparkling in the sunlight, the great river rushing headlong against mighty cliffs of rock and its waters rebounding in great columns and waves, great trees ramming and crashing the stone walls, —all this was indescribably thrilling and awe-inspiring. But there were dangers in that trip that we never thought of, or we never would have attempted it. Our boat was as helpless as a toy boat in that raging flood. The passengers, ignorant of impending dangers lurking on every side, were out on the top deck admiring the beautiful scenery. The whole crew of the boat, realizing their helplessness, consulted in whispers. The boat was backing with all power on her wheel, but the current was carrying her on at almost railroad speed.
>
> At one place she was heading straight for a great bluff. The pilot had given her all the wheel, but her rudders had no more effect than a skiff paddle would have had. There was only one life-boat and it would not have withstood the current for a minute. It was indeed a tense moment, filled with danger which only the crew recognized. Realizing that it was the only thing to be done under such conditions, they kept quiet. When within some fifty or sixty feet of the bluff a rebounding current struck the bow of the boat, her head was turned away, and she shot through at terrific speed, missing the great stone wall by only a few feet.

The trip from Chattanooga to Bridgeport, a distance of sixty miles, was made in less than two hours. At the Alabama town the passengers were transferred to the *Kingston,* and were taken on down the river. The *Cherokee,* however, remained at Bridgeport, and was used as a ferry across the river until the bridge at that point could be rebuilt. The trip of the *Cherokee* through the gorge is the only occasion on record wherein a boat went through the gorge section during a flood.[19]

One thing especially should be remembered in connection with the Tennessee's biggest flood and the damage that it caused. Should such a flood occur this year or in some subsequent year, the resulting damage would be very much greater. Take Chattanooga, for example. In 1867, it was a town with only a little over 5,000 population, while now it is a city of about 150,000. Land values have increased, industries have come in, and a large part of the lowest land in that region has been improved since 1867. The present property valuation at Chattanooga, in the area flooded in 1867, is about $100,000,000. If it be assumed that all the property in this area would be damaged ten per cent of its value, the total damage would be $10,000,000. Such is believed to be a conservative estimate of the damage which might result from a similar flood at Chattanooga. This is about five times the most liberal estimate of damages as published in the newspapers after the 1867 flood.

Just why did the flood of 1867 occur? Inspection of a map showing the drainage basin of the Tennessee River reveals that this basin lies in

[19]The exploits of the *Cherokee* are delightfully recounted in T. J. Campbell, *The Upper Tennessee* (Chattanooga, 1932), 61-66.

two lobe-shaped areas of about equal size. The upper lobe, or the Upper Basin, as it has been called, lies above Chattanooga and narrows down to its minimum width near that point. The narrow section acts as a bottle neck, through which must pass the concentrated water from all the Upper Basin. The streams forming the Tennessee just above Knoxville, and the principal tributaries below that point, form an almost fan-shaped drainage pattern and thus collect the water from the basin most effectively. That water, when it reaches Chattanooga, must all pass through the gorge section in the mountains. The section is narrow and is quite constricted. Such results in a further "piling-up" of the water at that point.

Still another factor in causing floods at Chattanooga is the rugged topography of the Smoky Mountains. A contour map shows the portion of that area in the Tennessee Basin to vary from Mount Mitchell in North Carolina with an elevation of 6,711 feet to 620 feet at Chattanooga, while a considerable portion of the area is above 4,000 feet. Such variation in elevations usually results in high rainfall and a quick run-off. This is exactly the case with the upper Tennessee. The highest annual rainfall east of the Rocky Mountains occurs in one section of the region, and reaches a total of about eighty-four inches per year over a considerable area. The average annual rainfall over the whole upper basin is about fifty-two inches. Occasionally, heavy snowfall occurs in the mountain region, as in 1867, but this is the exception rather than the rule.

It is useless to say that such a flood as that of 1867 will not occur again. It most certainly will, and the probability is high that a flood of considerably greater magnitude may be expected at any time in the future. Prior to that of 1867, great floods occurred in 1791 or 1792, 1808, 1826, 1842, and two in 1847.[20] Meager records of those floods indicate that they were of less magnitude than that of 1867. Since that date, great floods have occurred at Chattanooga in 1875, 1886, 1897, 1902, and 1917. Those, likewise, were of lesser magnitude at that point, although the flood of 1897 exceeded that of 1867 in the stretch of river below Chattanooga.

[20]Very few data have been found on these early floods, although the writer feels sure that considerably more are in existence. Some data have been found in newspapers, diaries, farm journals, and early school records. The author's research and study show that all data pertaining to weather, climatic conditions, floods, and droughts, have a very definite value for future studies and that, therefore, they should be carefully preserved. Besides the intrinsic historical interest of such, a basis may thereupon be formed for estimating what may occur in the future, thereby facilitating the prevention of damage from such occurrences.

THE OVERTHROW OF THE CONVICT LEASE SYSTEM IN TENNESSEE*

By A. C. Hutson, Jr.

The overthrow of the convict lease system in Tennessee came as a result of the coal miners' insurrections of late 1891 and 1892 in Anderson county. These renewed revolts came only after the evident failure of the Tennessee legislature and judiciary to alleviate the conditions which had instigated the earlier insurrections in 1891.

The insurrections of 1891 had arisen over the refusal of the coal miners employed by the Tennessee Coal Company at Briceville to sign an "iron-clad" contract, which would have forced them to relinquish their rights as provided by state law and to promise not to strike when they had a grievance. The company had contracted for and had acquired a number of state convicts to replace the free coal miners. Forthwith the miners were evicted from their work and homes; destitution and starvation descended upon the formerly happy and prosperous valley; concerted condemnation of the state and of the coal company was made by citizens of all classes throughout Tennessee; armed miners released and removed the convicts from their stockades on two occasions only to have them replaced by the state militia with a promise from Governor John B. Buchanan that the state legislature would be called into special session to consider the pressing problems relating to the coal mining industry.

An executive proclamation, issued by the governor in midsummer, 1891, calling the legislature into special session, enumerated the important problems for consideration: the enactment of legislation to empower the governor to execute the laws with the aid of civil or military forces; the repeal of the convict lease law, or its modification so as to reduce to a minimum the competition with free labor; a reform of the criminal procedure of the state; the prohibition of the issuance of scrip

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*This study is a continuation of the author's "The Coal Miners' Insurrections of 1891 in Anderson County, Tennessee," in The East Tennssee Historical Society's *Publications*, No. 7 (1935), 103-121. It was presented at a meeting of the Society in Knoxville, May 1, 1936.

in payment for labor; and provision for the punishment of those interfering with the labor of the state convicts.[1]

An aroused public indignation denounced the coal mining industry and the leasing system. Numerous solutions to the perplexing problem were offered. Mass meetings, held throughout the state, extended financial aid to the miners, dispatched resolutions and memorials to the governor and to the legislators protesting the iniquities of the coal mining system, and demanded a repeal of the convict lease law.[2] The Farmers' and Laborers' Alliance convention, which met in Nashville, August 12, 1891, favored the repeal of the lease law at the earliest practicable moment and the employment of the convicts on public roads under county supervision.[3] The Nashville *Banner* openly advocated the whipping post for minor offenses, which, it was contended, would eliminate the overcrowded condition of the penitentiary and at the same time accomplish a more effectual cure for waywardness.[4]

Governor Buchanan's message to the legislature, meeting in special session in August, 1891, reflected the influence of public opinion, for, instead of defending the lease system as he had done at the preceding session, he recommended the repeal of the lease law at the earliest practicable time and the immediate restriction of the state's convicts to a few mines, through a modification of the lease contract, as a means of relieving the situation which had produced the revolts of 1891. Two other recommendations were for a change in the criminal law and procedure so as to compel the counties to use trivial offenders on public roads, and for the removal of the penitentiary to a location outside the city limits of Nashville.[5]

Serious consideration of the various proposals by the General Assembly was limited to an earnest effort to modify the lease contract.[6] The lessees informed the legislature that they would surrender the contract, but that they could not consider a modification since they had already suffered severe losses.[7] They presented an alternate proposal, suggesting the erection of a new penitentiary by the lessees and the employment

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[1]Knoxville *Journal*, July 23, August 7, 1891. Other problems mentioned, but of minor importance, included a redistricting of the state, correction of the election laws, and the appropriation of funds to the World's Fair. Action was taken on the first two subjects. The latter was ignored. See *Acts of the State of Tennessee passed by the Extraordinary Session of the Forty-Seventh General Assembly, 1891* (Nashville, 1891), ch. 10, p. 25, ch. 12, p. 30. Hereafter cited as *Acts*.

[2]Knoxville *Journal*, July 23, 24, 29, 31, August 9, 10, 1891.

[3]*Ibid.*, August 13, 1891.

[4]*Ibid.*, July 31, 1891 (reprinted from Nashville *Banner*).

[5]*House Journal of the Extraordinary Session of the Forty-Seventh General Assembly of the State of Tennessee, 1891* (Nashville, 1891), governor's message, 10-24. Hereafter cited as *House Journal*.

[6]Knoxville *Journal*, September 2, 3, 5, 1891.

[7]*Ibid.*, September 9, 1891.

of the convicts in coal mines in Marion, Bledsoe, and Sequatchie counties; for this the state would be reimbursed to the amount of $250,000 per year for the maintenance of the penitentiary.[8] This proposal was not acceptable to the legislature, because it was estimated that the state's penal expenditures would exceed $250,000, and because it was deemed ill advisable for the state to enter into a contract of twenty-five to thirty years' duration as desired by the lessees. The legislature would not consider the possibility of surrendering the contract since the state was constitutionally obligated to it.[9] One bill, designed for the immediate repeal of the lease law, came to a vote, but it was defeated in the House of Representatives, fifty-nine to twenty-three.[10]

Attempts to diminish the evils produced by the system met with repeated failure and the only mitigating expression of sympathy to the miners and to other opponents of the lease law was embodied in a House resolution which stated: "It is the sense of this body that the convicts in the penitentiary should never be leased again."[11] This was a feeble gesture that was received with great scorn. As for the miners' industrial grievances, the legislature enacted a law compelling all industries to pay their employees in lawful United States currency at regular intervals.[12] This was nullified, however, the following year by the state supreme court, which held that a similar law passed in 1887 had been declared unconstitutional in that it might in certain cases result in imprisonment for debt.[13]

Failing to render any relief to the miners, the legislature enacted laws insuring the continuance of the system by providing ample appropriations for the state militia, and by empowering the governor to use the militia in suppressing all "insurrections, mobs . . . whether existing or imminent", which in his opinion would be "too formidable for the local county authorities".[14] The act was limited in duration until the next General Assembly and was, therefore, especially designed to suppress the revolting miners. Additional acts were passed authorizing, first, the governor to command all necessary posses to suppress the revolters; and, second, the courts to order the imprisonment of such law violators for terms of from one to seven years in the penitentiary.[15] Governor Buchanan was commended by the Senate for his "promptness, energy,

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[8] *Ibid.*, September 10, 1891.

[9] *Ibid.*, September 4, 1891.

[10] *House Journal, 1891* (Extra), 108-109.

[11] Knoxville *Journal*, September 6, 1891.

[12] *Ibid.*, September 16, 1891; *Acts, 1891* (Extra), ch. 5, p. 16.

[13] State *v.* Paint Rock Coal and Coke Co., in *Reports of Cases in the Supreme Court of Tennessee* [Pickle, VIII] (Nashville, 1893), 81-84.

[14] *Acts, 1891* (Extra), ch. 7, p. 21, ch. 27, p. 93, ch. 8, pp. 22-23.

[15] *Ibid., 1891* (Extra), ch. 13, p. 22.

firmness, and untiring efforts to restore law and order at Coal Creek and Briceville".[16]

The legislators in adjourning received the gubernatorial "Thanks" and departed homeward, disagreeing among themselves as to the reasons for their failure to redress the situation, for which purpose they had been called into session.[17] The legislators were described by the press of the state as being "self-convicted of ignorance, stupidity, inability, and blind partisanship", and as being "utterly unfitted for the discharge of the responsible duties of law-makers".[18] As usual, in Tennessee, the legislature of 1891 was overwhelmingly Democratic, with 105 Democrats and only twenty-seven Republicans.[19] The Alliance platform plank favoring a repeal of the lease law had little effect on the fifty-four Alliancemen in the legislature. The seventy-six farmer legislators regardless of party affiliations favored the lease system's continuance since it reduced taxes; the Republicans blamed the Democrats for its continuance; and the Democrats denounced the various factions within their party for the lack of action. Failure to realize the necessity for immediate action on the question was perhaps the reason for this legislative default. The result, naturally, was accepted with ill grace by the miners and by the opponents of the lease system in general.[20]

The action of the state board of prison inspectors in removing the convicts from the Tennessee Coal Company mine during the summer of 1891, due to the failure of the lessees to comply with regulations regarding mining conditions, incited an unrealized hope that the removal might be permanent. The mining conditions were atrocious: defective ventilation; insufficient drainage; horrible sanitation; only one entrance to the mine; and no protective inspection of the mine prior to work. The convicts were inadequately fed and forced to work and sleep in the same clothing.[21] The lessees and the coal mine operators set about immediately to remedy conditions and within a few weeks the convicts were returned to the mine. The board had acted only in the interest of the convicts, hence the removal had little effect upon the free, but still unemployed, coal miners.[22]

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[16]*Ibid., 1891* (Extra), Senate resolutions, 113.

[17]Knoxville *Journal,* September 22, 1891.

[18]*Ibid.,* September 20, 1891.

[19]Charles Austin Miller, *The Official and Political Manual of the State of Tennessee* (Nashville, 1890), 246-247.

[20]Knoxville *Journal,* September 20, 22, 1891 (editorial reprinted from Memphis *Commercial*); Knoxville *Tribune,* September 22, 1891 (reprinted from Nashville *Herald*); Knoxville *Tribune,* September 25, 1891 (reprinted from Nashville *Banner*).

[21]Second Annual *Report* of the Commissioner of Labor, 1893, in *Appendix to Senate Journal, 1893* (Nashville, 1893), 190-200; Knoxville *Journal,* August 12, 14, 1891.

[22]*Senate Journal, 1893,* appendix ,report of commissioner of labor, 210-220.

All other attempts for relief having failed, the miners sought to obtain redress through the courts. In September, a justice of the peace was smuggled into the Tennessee Coal Company's mine and William Warren, a convict, was induced to sign papers applying for a *habeas corpus* proceeding on the ground that he was being held illegally in the mine.[23] The lower court in Knoxville declared that the convict was being held in an illegal prison, since it was not under the control of the prison authorities, and that he should therefore be returned to the penitentiary in Nashville.[24] On appeal, the state supreme court reversed the judgment and remanded the prisoner to the mine on the basis of the lease law of 1889, which permitted the employment of convicts anywhere in the state under the control of a state-appointed warden and in accordance with the rules of the board of prison inspectors.[25]

The miners had patiently waited throughout the summer and early fall for relief, only to find that the state legislature could not agree upon a disposition of the penitentiary system; that the board of prison inspectors offered no permanent relief; and that the judiciary had declared legal the employment of convicts in the mines. The public apprehensively awaited the reaction on the part of the miners. The reply was in the form of a revolt, which the miners termed an "extra session" of their own.

On October 28, 1891, the miners' committee, which had toured the state, had labored during the meeting of the legislature, and had brought a case into the courts in the interest of the miners, made its report to the main body of miners. It reviewed the proceedings of the legislature and of the courts in their complete failure to accomplish any redress of grievances. It expressed gratitude to the labor unions of the state, which had so generously assisted it both morally and financially, and to the press of the state for its expressed good will. In conclusion, the committee gave its parting advice:

> As the state has so willed it, and is prepared to enforce its will with the bayonet and Gatling gun, that you peaceably give up your work, your homes and sweet memories that around you cling, and, like Hagar, be driven out with your helpless ones apparently by the power that should shelter and protect you; driven out by the dictation of the penitentiary ring which has now indeed, been proven stronger than the state, and may you as Hagar did, find a protection in a Divine Providence, for surely you can find none elsewhere; with sorrow too deep to express, we ring down the curtain on the last act in the Briceville drama by tendering to you our resignations.[26]

The conservative miners were immediately overthrown by the more radical group, which at once adopted extreme policies.

[23] *Ibid.*, 220-230.
[24] *Ibid.*, 226.
[25] State, *ex rel., v.* Jack, in *Reports of Cases in the Supreme Court of Tennessee* [Pickle, VI] (Nashville, 1892), 614-618.
[26] Knoxville *Journal*, October 29, 1891.

Presentiment of another revolt had existed since the adjournment of the legislature. During the fall the convict stockade officials had demanded, but had been refused, additional guards.[27] After several secret meetings the miners were ready to act. About nine o'clock on the evening of October 31, lights were sighted from the hill tops surrounding the Tennessee Coal Mine; shortly afterwards the miners filed up to the stockade and demanded the release of the convicts. After a conference the officials turned over the convicts to the miners, who told them to "get out of here." The 163 convicts scattered over the valley, casting off their "stripes" and putting on other clothing, for which the store of Captain John Chumley was raided. The miners set fire to the stockade and to the other buildings, leaving only the chimneys standing.[28]

Later in the evening the miners released in the same manner 120 convicts at the Knoxville Iron Mine. The stockade there was not demolished as the warden's wife was seriously ill in the adjoining house, but the two guardhouses and the office were fired. After liberating the convicts, the miners faded away into the night, their respective individualities lost. During the next few days the miners remained silent, while the citizens of Coal Creek wondered at the great secrecy with which the militant movement had been made. The prevailing comment was, "We've done the job; now what is the Governor going to do about it?"[29]

Governor Buchanan was informed of the outbreak by the assistant commissioner of labor, Charles Alleman, and by a released colored convict, Richard Hunter, who telegraphed the following message: "Me and sixteen of us who was working at Briceville was turned loose last night by the miners. They burned up everything there. We are loose together at Clinton. What shall I do?"[30] Although this incident was somewhat amusing, the situation presented a "knotty problem" in that the convicts were so widely dispersed and the miners mob so scattered that arrests were impossible. The law provided a punishment, but where to find, and how to convict, the principals presented an almost impossible task.

Thus the matter stood until Sunday night, November 2, when the citizens of Oliver Springs, across the county from Coal Creek, were completely surprised by the liberation of 200 of the "Toughest of the tough" at the Cumberland Mine. About midnight a band of horsemen rode silently up to the convict stockade and demanded admittance. The miners, being refused admittance, battered the door down with a sledge hammer, quickly released the convicts, and commanded them to leave the

[27] *Senate Journal, 1893,* appendix, report of the superintendent of prisons, 190.
[28] Knoxville *Journal,* November 2, 1891.
[29] *Ibid.,* November 2, 1891.
[30] *Ibid.,* November 2, 1891; *Senate Journal, 1893,* appendix, report of the commissioner of labor, 226-228, 237-238.

county. The miners, ignoring the pleas of the coal mine officials as not being given in good faith, applied the torch to the buildings. In the light of the lurid flames could be seen the silent miners, their task completed, riding away into the blackness of the night with their identities unknown and their destinations uncertain. No shots were fired, no one was hurt, and the eviction was so silently performed that few of the villagers were aware of it until the following morning.[31]

The lessees repeated their indignation over the governor's inactivity by refusing to pay for the services of the convicts and by demanding damages from the state. The Tennessee Coal Mine resumed work with free labor and expressed the hope that the convicts had at last been permanently removed.[32] The lessees and state officials joined in blaming the revolt upon the state prison board for not having employed more than seven guards at the Briceville mine. This neglect, they asserted, was a "fatal over-sight and a piece of grotesque absurdity. . . . It was a standing invitation to the dissatisfied miners to release the convicts."[33] The Knoxville *Tribune* voiced a severe criticism of the miners' sympathizers for their short-sightedness and failure to see the far reaching damage of the Briceville affair. "Laboring men," it said, "may look for dull times", for "lawlessness jeopardizes business and mobs drive away business."[34] The Knoxville *Journal,* while not so severely critical of the miners, described the affair as an "appalling situation", which was an "extreme humiliation and profound discouragement to all lovers of law and order. Whatever the sympathies and feelings of the public might be, the laws of the land had to be upheld or the liberties of the people would be gone." It further stated that "in the summer the miners had the sympathies of nine-tenths of the people of the state. . . . Now nine-tenths of the people will unite to see obedience enforced". The *Journal,* however, held that such trouble could be expected when the "state abdicated to the lessees of her convicts".[35] The Chattanooga *Republican* replied to the miners' critics by stating:

> They are not ruffians and . . . cut-throats. Rather call the legislature robbers, for the law which imposed convicts on the citizens of Anderson county has robbed honest working men of employment, has driven them from their homes and has robbed the farmers of Anderson county of a home market for their products. Rather call the legislature inhuman because they refused to listen to the appeals of the miners; and when they asked for the right to labor and earn bread for their families, received in answer the contemptuous reply: "We not only make it a crime for you to interfere with state convicts, but we send more convicts into your midst to show you that the power of the state is supreme."[36]

[31]Knoxville *Journal,* November 2, 4, 1891.
[32]*Ibid.,* November 2, 4, 1891.
[33]*Ibid.,* November 2, 4, 1891.
[34]Knoxville *Tribune,* November 5, 1891.
[35]Knoxville *Journal,* November 3, 4, 1891.
[36]Clinton [Tennessee] *Gazette,* November, 1891 (reprinted from Chattanooga *Republican*).

The action of the miners was "lawless and unjustifiable", according to the Clinton *Gazette,* but it was caused by the "shameful convict lease system", by the failure of the legislature to abolish the "inhuman system", and by the fact that the attempt of the miners to secure a peaceable adjustment of the difficulties had been "practically ignored".[37]

While the state press was discussing the situation and the state government trying to decide upon a course of action, peace and prosperity had descended upon the entire valley from Coal Creek to Briceville. About 1,000 miners were happily employed at the mines, working full time in order to fill the orders which had accumulated during the revolt. The iron-clad contract had been abolished and the miners were allowed a check weighman. The miners had no apparent fear of the consequences of the recent events as they regarded their lawlessness as "right and proper", because it had relieved them of the curse that had blighted their homes for many years.[38] The coal mine operators were employing all of the available free labor and signified their intention of using only free labor in the future if arrangements could be made with the lessees to modify, or break, the existing contracts.[39]

The third coal miners' insurrection placed Governor Buchanan in a quandary, and it appeared as though he might be unable to cope with the situation. The miners mob had released the convicts and had demolished the stockades. The members had been masked, had done their work at night, and had departed with their identities unrevealed. The citizens of the community had either seen no one or had quickly forgot what they knew. Great efforts were put forth to recapture the liberated convicts, but the task was very difficult since many had escaped into other states. The governor sought to place the blame for the revolts upon Sheriff Rufus Rutherford of Anderson county and in a letter reprimanded the latter for not having informed him of the imminent danger of the revolt and also for not arresting the guilty parties. The sheriff replied that he had informed the governor of the situation prior to the revolt and that he had done all within his power to capture the guilty parties, but that the secrecy with which the revolters had worked made their apprehension difficult.[40] After considerable delay Governor Buchanan ordered the branch prisons reenforced at the state's expense. He also issued two proclamations, in which he offered a reward of $5,000 for the arrest and conviction of the leader of the Briceville revolt with $50 for each assistant and also the sum of $25 for the return of each released convict.[40] Identical rewards were offered for the capture of the rioters at the Cum-

[37] *Ibid.,* November, 1891.
[38] Knoxville *Journal,* November 4, 6, 8, 16, 1891.
[39] *Ibid.,* November 8, 1891.
[40] *Ibid.,* November 5, 6, 7, 9, 15, 1891; Clinton *Gazette,* November, 1891.

berland Mine revolt.[41] Needless to remark, the $5,000 was never collected, and later the governor reduced the $25 reward to $5.[42]

The third insurrection, with its radical leadership, its destructiveness, and its lawlessness, completely severed the popular sympathy and support of the public from the miners. No longer did the press commiserate with the miners; instead, their lawlessness was violently denounced. For example, the Nashville *American* spoke of the situation as follows: "It is no longer a question of expense; the question is, shall Tennessee allow a gang of thieves, robbers, ruffians, and outlaws to trample with impunity upon the law. The money spent to put the convict stripes on these criminals and vindicate the law will be a profitable investment."[43]

Governor Buchanan's inactivity in not having the revolters apprehended and in not carrying out the lease contract aroused additional and greater condemnation. He was characterized as a good man, determined and obstinate, but wholly unable to reach a definite decision on the question. The real cause of the delay was the inability of the governor and the lessees to come to an agreement as to the return of the convicts.[44] Finally, about the middle of December, the governor announced that the convicts would be replaced in the mine stockades at Briceville, Oliver Springs, and Coal Creek, with a civil and military guard of 175 men, the latter to be paid jointly by the state and by the lessees.[45]

A state military force under General Keller Anderson assembled in Nashville and on December 31 left with 200 convicts for Coal Creek, where the convicts were placed in the Knoxville Iron Mine stockade. Fort Anderson was erected on a hill, later known as Militia Hill, next to the Knoxville Iron Mine.[46] The militia dug two lines of trenches around the top of the hill and placed a Gatling gun on a point overlooking the valley. Opposite Militia Hill is the much higher Walden's Ridge, which at this point has a break in the range through which the little Coal Creek threads its way. These three mountain tops comprise a triangular formation, within which the miners and soldiers fought during the summer of 1892.

Ostensibly, the militia was not to guard the convicts, but to preserve law and order in the valley; the miners, however, indignantly termed its coming an "invasion into a peaceful valley where there was no disturbance".[47] It was apparent that if the convicts were returned without the

[41]Knoxville *Journal*, November 1, 2, 1891.
[42]*Ibid.*, November 3, 4, 1891.
[43]Clinton *Gazette*, November, 1891 (reprinted from Nashville *American*).
[44]Knoxville *Journal*, November 5, 7, 8, 29, 30, December 15, 1891.
[45]*Ibid.*, January 2, 1892.
[46]*Ibid.*, January 3, 1892.
[47]*Ibid.*, January 3, 1892.

militia, the miners would again expel them from the valley and Governor Buchanan could ill afford the humiliation of another convict release. The editor of the Knoxville *Journal* commented on the situation as follows: "He cannot afford to blunder again, and if he can the state of Tennessee cannot. She is not strong enough to again be made the laughing stock in the eyes of the world".[48]

The convicts were not, however, returned to the Tennessee Coal Company's mine, since its stockade had been burned during the uprising, since the houses were all rented by free miners, and since the company no longer desired to employ convict labor. A lengthy dispute ensued between the company and the lessees, which was finally adjusted by the governor, who upheld the Tennessee Coal Company and refused to allow the lessees to return the convicts to that mine.[49] The Big Mountain Coal Company, which owned the Cumberland Mine at Oliver Springs, also refused to reemploy the convicts. The Tennessee Coal Iron and Railroad Company, lessees of the state's convicts, however, purchased all property of the Big Mountain Coal Company and at that time the convicts were returned there with a military guard under Captain W. H. Brown.[50]

The third revolt of the coal miners resulted in the permanent removal of the convicts from competition with free labor at the Tennessee Coal Mine and in the establishment of the first permanent military camp in Tennessee by the state militia for the purpose of maintaining law and order, while the convicts remained as a "thorn in the flesh" to the free miners at the Knoxville Iron Mine and the Big Mountain Coal Mine.

Rampant lawlessness, widespread destruction, the coming of additional soldiers, bloodshed, and wholesale arrests and indictments with few convictions characterized the fourth and final revolt in the coal miners' insurrections. The chronic dissatisfaction of the miners at being compelled to compete with convict labor was intensified by the fact that as work grew slack during the summer the free miners were only part time employed, while the convicts were employed constantly. This situation was aggravated by the indignities forced upon the miners by the "standing army" at Coal Creek. Previous revolts against the "inhuman convict lease system" were mild as compared with the volcanic uprising of August, 1892. Preceding revolts had not resulted in a complete redress of miners' grievances, but the miners had escaped punishment for their rioting, which emboldened them to believe that the state would not prose-

[48] *Ibid.*, November 30, 1891.

[49] *Ibid.*, January 1, 2, 5, 1892; *Senate Journal, 1893,* appendix, report of the commissioner of labor, 231-233.

[50] Knoxville *Journal,* January 21, 29, 1892; *Senate Journal, 1893,* appendix, report of the commissioner of labor, 143-144, report of the adjutant-general, 15.

cute them and that with a few bold strokes they might be able to annihilate the hated system.

The revolts of 1892 began in Grundy county, in Middle Tennessee, at the mines of the Tennessee Coal Iron and Railroad Company, the lessees of the state convicts. Feeling between the company officials and the miners had been harmonious up to July of 1892 and the miners had not revolted the previous year along with the Anderson county miners since they were contented with existing conditions. In July, however, the miners were cut to half time, while the 360 convicts worked continuously. The miners began holding secret meetings and discussing plans for a wholesale removal of the convicts. The lessees and branch prison officials expressed great uneasiness and requested reenforcements. On August 10, the superintendent of prisons, E. B. Wade, held several conferences at Tracy City, at which time it was decided that the miners had abandoned their proposed plan. After Wade had departed for Inman, however, a miners committee approached Superintendent Natharst of the Tracy City mines and requested additional work. His reply that such would be available within thirty days was not acceptable to the miners, who immediately decided to free the convicts. About nine o'clock that morning the miners appeared at the convict stockade, overcame the guards, removed the valuables, and applied the torch to the buildings. The miners next proceeded to the mines, where they took possession of the convicts, placed them on a train, and sent them to Nashville. On the way the convicts disconnected one car from the train and thirteen made a break for liberty; of these six were never recaptured.[51]

The miners then proceeded to the Inman Mine, where the guards were overpowered. Then the convicts were removed and forwarded to Nashville. Because the stockade was located underneath the railroad bridge which carried the coal from the mine, it was torn down, rather than burned.[52]

The two new outbreaks incited renewed action by and statements from the lessees, the press, and the state officials. The lessees declared that they were wholly unable to employ the convicts so long as they had no assistance from the state and that they were willing to surrender the lease contract and to allow the state to make such disposition of the convicts as it deemed best.[53] The press loudly and widely berated Governor Buchanan for his inability to control the situation. The Knoxville *Journal* stated that:

> Two hundred men are guilty of arson . . . the law has been outrageously violated. . . . What is to be done? . . . Are the courts of the state powerless?

[51]Knoxville *Journal*, August 14, 1892; *Senate Journal, 1893*, appendix, report of the superintendent of prisons, 20; *Annual Cyclopedia, 1892*, pp. 725-726.
[52]Knoxville *Journal*, August 16, 1892.
[53]*Ibid.*, August 16, 1892.

> Has the Governor of the state no authority, or if he has, has he no power to enforce it? . . . Poor Tennessee, a grand state and a grand people; but the victims of mediocrity and imbecility. . . .[54]

The governor declared that he could do nothing until the stockades were rebuilt. He berated the legislators for not having abrogated the lease system entirely. A few days later, however, he issued a joint statement with the prison board to the effect that the contract with the lessees could be declared forfeit because (1) the contract had not been complied with; (2) the lessees were willing to surrender the contract; (3) the lessees refused to pay expenses of maintaining the released convicts at Nashville; (4) the lessees owed the state $97,000; and (5) the lessees refused to pay expenses of returning the convicts to Tracy City and to Inman.[55] The governor, however, was not given the opportunity to carry out his intentions, for the miners in Anderson county renewed their rebellion and by the time they were subdued he had changed his mind.

The attacks at Tracy City and at Inman were among the factors which incited renewed revolts in Anderson county, although the latter had been the scene of a rumbling volcano since the return of the convicts with the militia in January, 1892. Resentment had been kindled by the replacement of the miners by convicts, by the presence of the militia and the Gatling gun, and by other humiliations which had been pressed upon the miners and other citizens of the vicinity. The militia was composed of inexperienced young men who considered their work as a "lark",[56] and whose reputations were not "savory". Earlier in the year, while a group of soldiers were having their pictures taken, revealing their bravery in guarding a convict, a gun had gone off and the helpless convict had been killed. The poor convict had failed safely to run the "hazardous gauntlet of the attitudinizing military guard".[57] The soldiers were frequently tried for desertion, for drunkenness, for carrying pistols, and for disturbance of the peace. Many of these were pardoned by the governor.[58] The unprovoked hanging of a young miner, named Drummond, by the pompous Lieutenant Perry Fytte and his command was the event which finally expunged any desire of peace from the minds of the miners.[59]

On the morning of August 15, Captain Ferris, at the Oliver Springs stockade, discovered about 100 miners approaching the convict quarters. When the miners demanded the release of the convicts, the guards re-

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[54] *Ibid.*, August 15, 1892.
[55] *Ibid.*, August 17, 1892.
[56] Knoxville *Tribune*, January 27, 1892 (reprinted from Nashville *Banner*); Knoxville *Journal*, January 16, 1892.
[57] *Ibid.*, January 27, 1892.
[58] *Ibid.*, March 3, 1892.
[59] *Ibid.*, August 9, 1892. The statement is based in part upon the author's interviews with miners and with Mr. G. W. Ford, state commissioner of labor at the time of the revolt.

plied, "Come and get us". Thus for the first time in the history of the convict warfare, the guards had not been bluffed, but the reply evoked volleys of firing, which continued for about half an hour, after which the miners raised a flag of truce and were permitted to withdraw with their wounded. In leaving, the leader of the miners shouted that they would obtain reenforcements and return.[60] Immediately, Governor Buchanan was apprised of the situation and General Cator Woolford with the third regiment, composed of Knoxville and Chattanooga militiamen, was ordered to the scene. Major Chandler and his men from Knoxville arrived at the mine late that afternoon and assisted in preparing for an expected resumption of the fight.[61]

Meanwhile, miners from the entire surrounding territory gathered in Coal Creek, where they commandeered two freight trains and ordered the engineers to move on to Oliver Springs under "Shot-gun orders". There for two hours the miners massed into formation, being constantly augmented by additional aid coming in bands of from fifty to 100, until at last the march on the stockade, four miles distant, was started. On the way, the miners met and captured Sergeant Lee Huddleston, who was on his way to Oliver Springs to direct the Chattanooga recruits. Upon arriving at the stockade, a committee conferred with the warden and presented a proposition, whereby the convicts were to be returned to Nashville and the guards, militiamen, and company property left unmolested. The warden, realizing the futility of resistance, capitulated, and the guards and militiamen were marched out between two banked lines of miners, who deprived them of their guns and ammunition. After the convicts were removed and sent to Oliver Springs under guard, the stockade and blockhouses were completely destroyed by fire. The miners then returned to Oliver Springs, where the convicts were loaded on freight cars and started for Knoxville, while the miners followed in their commandeered trains to Coal Creek. Meanwhile, the Knoxville militiamen had started the long, dusty walk home. Later, they were picked up by a train and so brought to Knoxville.[62]

The third regiment had proceeded from Chattanooga to Harriman several hours prior to the Oliver Springs revolt. Despite orders to proceed and the fact that a train was available to provide transportation, Colonel Woolford did not leave until after the capitulation; then he was instructed to reach Fort Anderson, if possible. Deciding that such was impossible, he left immediately for Knoxville.[63]

When news of this outbreak reached him, Governor Buchanan, who had been nervously pacing the capitol floor, simply ordered that the con-

[60] *Ibid.*, August 17, 1892.

[61] *Ibid.*, August 17, 1892; *Senate Journal, 1893,* appendix, report of the adjutant-general, 6-7.

[62] Knoxville *Journal,* August 18, 1892.

[63] *Ibid.*, August 18, 1892; *Senate Journal, 1893,* appendix, report of the adjutant-general, 6-7.

victs be brought to Nashville. He replied to the miners' ultimatum to remove the soldiers from Fort Anderson, or take the consequences, by saying, "Be orderly, be quiet . . . satisfactory arrangements will be made."[64] The infuriated miners sent their ultimatum a second time, which the governor ignored, except to order the second and third regiments, and several county posses, under General Carnes to proceed to Coal Creek. The sheriff of Anderson county, the only official to answer, stated that he was powerless to act.[65] Upon the urgent recommendation of various state officials, Governor Buchanan advised the miners that he was coming to Knoxville to adjust matters, but his departure was prevented by an attack of "nervous prostration", caused by "worry". Therefore, the governor telegraphed Joseph J. Ivins that he was "seriously ill" and could not come, but that he wanted the miners to realize that if they would be "patient a few days I have no doubt matters can be satisfactorily arranged according to law".[66]

The governor's message was received with divided opinion by the miners. Many thought that it was a device to forestall an attack upon the fort until reenforcements could be mustered. Despite the advice of the conservatives, who cautioned delay, the miners, now under radical leadership, entrenched themselves on Walden's Ridge, where they fired away at the militia during the day and then drifted back to their homes at night for food and supplies. Pickets were posted and preparations made for a long siege. About 1,000 miners banded themselves together under a secret oath not to divulge any information regarding their organization, even under the greatest of "pain and suffering, prison, whipping, or death".[67] Several attacks were made on Fort Anderson, but all were repulsed. When it was rumored that a storm attack was to be made on the fort, some of the conservative miners went to the fort and requested Colonel Anderson to accompany them to Coal Creek to discuss a settlement. Anderson had long been a boon companion of many of the conservative leaders, so he complied with their request. In Coal Creek, he became drunk and was protected from the radical miners by the conservatives until the arrival of General Carnes.[68]

Meanwhile, the state was mobilizing its forces to suppress the revolt. While General Carnes was organizing his large army at Chattanooga, a detachment under Major Carpenter left Knoxville enroute to Fort Anderson by way of Clinton and the mountain road over Walden's Ridge. A lack of geographical knowledge of the route and a heavy rainfall de-

[64]Knoxville *Journal*, August 18, 1892.
[65]*Ibid.*, August 18, 1892.
[66]*Ibid.*, August 18, 1892.
[67]*Ibid.*, August 19, 1892.
[68]*Ibid.*, August 19, 1892; *Senate Journal, 1893*, appendix, report of the commissioner of labor, 228-234. Some of the facts were ascertained by the writer from interviews with living participants.

layed its progress across the bad mountain road. Just after sun-up the detachment was surprised by a shout "Surround them, boys". Fancying themselves surrounded, the militiamen, led by Major Carpenter, successfully fought their way to the top of the ridge, but not without the loss of two men, who were instantly killed. In fact, however, the "surrounding" miners' force consisted only of three or four pickets. Being without supplies, the soldiers were compelled to retreat to Clinton. Halfway the distance, Major Carpenter, who had boasted that "when the old war horse gets out to Coal Creek and gives the war whoop, the miners will hunt their hole", became so exhausted that he had to be carried in a wagon the rest of the way. At Clinton the detachment was ordered back to Knoxville, since General Carnes had already reached Coal Creek and had the situation under control.[69]

General Carnes with 500 soldiers had proceeded directly by special train to Clinton, where he had been advised to take the mountain road into Coal Creek, inasmuch as the miners had reportedly dynamited a railroad bridge and were waiting in ambush to attack the militia.[70] After wading for several hours through mud, pulling a heavy gun carriage, the army found that it had taken the wrong road and was still five miles from its objective; the general ordered the train brought up to that point, whereupon the entire army was entrained and shortly afterwards reached Coal Creek. Carnes demanded the surrender of the village, which was obtained without difficulty, for the miners, awed by the shedding of blood in the Walden's Ridge fight and by the arrival of such a large force of soldiers, quickly dispersed into the mountains to find hideouts.[71]

General Carnes proceeded to place under arrest as many miners and citizens as possible in Coal Creek and surrounding territory and to hold them in railroad cars, the school house, and even the Methodist church until preliminary hearings could be held.[72] The state's commissioner of

[69]Knoxville *Journal,* August 18, 19, 20, 21, 22, 1892. Some days later fifty Knoxville citizens returned to the "Fatal Rock", as it became known, and brought the bodies of John Walthall and "Bunch" Givens to Knoxville on a special train. Walthall's body was later taken to Dublin, Virginia, for burial, while Givens was buried near Maryville, Tennessee. Resolutions, flowers, and financial assistance for the families were extended by the citizens of Knoxville.

[70]*Ibid.,* August 18, 20, 23, 1892.

[71]*Ibid.,* August 21, 25, 27, 1892; *Senate Journal, 1893,* appendix, report of Brigadier General Carnes, 28-34. Colonel Woolford, having been defeated in a brief skirmish with the miners, joined General Carnes at Knapps Summit.

[72]*Ibid.,* 28-34. The fighting ended with the arrival of the militia, so the sheriff's posses were released, along with a large number of the militiamen, who had pressing business at home. The insurrection had aroused the martial spirit over the state and 2,500 men were reported ready to move on Coal Creek. None were called except a Knoxville posse under Sheriff Holloway, which assisted in the arrest of the miners. Ammunition was sent to Coal Creek from Nashville and from the federal arsenal at Indianapolis. The work of arresting the miners progressed slowly as many had "left the country". One of the leaders of the revolt was assisted by an old doctor, who gave him a long-tailed coat, a silk hat, and a box of harmless sugar pills. With this outfit the miner made his way out of the state, posing as an old country doctor.

labor, G. W. Ford, who was "objectionable" to General Carnes and who had been accused of complicity in the revolts, was imprisoned along with the others. General J. C. J. Williams and state Attorney General Pickle served as counsel for Ford and at the hearing produced evidence that Ford had advised peaceful negotiations rather than unlawful outbreaks and that Ford's life "was in danger every minute that he was in the creek" because he was a representative of the state government. Justice of the Peace Kincaid acquitted Ford of any complicity in the revolt.[73] The supposed miners' leader, D. B. Monroe, was arrested on August 23, and, despite the testimony of Colonel Anderson that Monroe had been a conservative force among the miners and had at one time saved his, Anderson's, life from the radicals, Squire Kincaid remanded him to jail to await trial.[74] Several hundred miners and citizens were found guilty of consipracy with the mob and of releasing convicts, and these were brought before the Anderson county grand jury, preliminary to the session of the circuit court in the latter part of September.[75] The grand jury investigated all of these cases, after being specifically charged by Judge Hicks that the law authorized the leasing of convicts; that it was a felony to interfere with their labor; that Governor Buchanan had the right to send the militia to Coal Creek; and that if any one had been murdered, the entire mob could be charged with murder. Approximately 300 persons were indicted for conspiracy, for carrying arms, or for murder, and these cases were remanded to the next term of court.[76]

In the trial of D. B. Monroe the prosecution sought to prove that he had been the leader of the mob, had directed its activities, and had signed passes as "D. B. Monroe, Chief"; while the defense maintained that he had been a peacemaker, had tried to maintain law and order, had protected the life of Colonel Anderson from the radicals, and at no time had incited the miners to revolt. The jury disagreed as to a verdict (ten for acquittal and two for conviction), and the case was remanded to the next term of court. Monroe was not convicted until the summer of 1893, when, found guilty of involuntary manslaughter and interfering with convict labor, he was sentenced to seven years in the penitentiary.[77] Only one other man, S. A. Moore, a Baptist minister, was given a prison sentence, and it for only one year, for participation in the revolt.[78] Regardless of the guilt or innocence of D. B. Monroe, it is extremely doubtful that he would have been sentenced to the penitentiary if he had been a native of Coal Creek. Some one had to be named as a scapegoat and

[73] Knoxville *Journal*, August 21, 23, 25, 27, September 1, 1892.
[74] *Ibid.*, August 25, 26, 29, 1892.
[75] *Ibid.*, August 25, 26, 29, 1892.
[76] *Ibid.*, October 2, 1892.
[77] *Ibid.*, October 5, 6, 7, 8, 9, 10, 11, 1892; Anderson county circuit court records, May, 1892-October, 1893; *House Journal, 1895*, appendix, report of the penitentiary, 30-35.
[78] *Ibid., 1895*, pp. 30-35.

convicted, so it was natural that the jury would be less lenient on an "outsider".

The decisions rendered in the 300 or more indictments against persons accused of implication in the uprising were both numerous and ridiculous. The state militia had departed before the summer of 1893, hence the court and juries were not intimidated by the soldiers as they had been previously. The intention of the court seems to have been to stop the outbreaks by a long series of indictments and then later to release the individuals as rapidly as court procedure would allow. Some cases were dropped since the sheriff could not find the accused; others were disposed of by *nolle prosequi* proceedings, in some cases if the defendant would pay the costs, in others with the county and state paying the costs.[79] Only a few participants were fined, or given short jail sentences. The revolters at Tracy City and Inman were also acquitted of any guilt in connection with the revolts. This judicial farce was due to the overwhelming sympathy of the citizenry and of the courts with the miners in their difficulties and to the state's policy of retaining the militia in the community just to maintain the hated convict lease system. If the militia had remained in Anderson county after 1892, there might have been a different story to relate.

The expense of the insurrection, including the expenditures of the militia, the judicial proceedings, and the losses sustained by the individuals and companies, amounted to a sum in excess of $400,000.[80] After considerable discussion as to the possibility of abolishing the lease contract and of the advisability of returning the convicts to the branch prisons, it was finally decided that, since the state would not entertain any proposition regarding a voluntary surrender of the contract and since the lessees did not welcome the results of a contract forfeiture, the convicts should be returned to the mines at the earliest practicable moment. The stockades were rebuilt and the convicts, accompanied by the militia, returned in the fall of 1892 to the mines, where they remained until the abolition of the lease system in 1896.[81]

The fourth and final revolt of the miners against the convict lease system ended with the farcical attempt of the courts to convict the rioters, and with the increased military guard stationed at the various branch prisons, ostensibly to maintain law and order, but in reality to keep the state convicts in the mines. The miners remained quiet after the final revolt in August, 1892, awaiting the outcome of the election of that year

[79] *Ibid., 1895,* pp. 30-35.

[80] *Senate Journal, 1893,* appendix, report of the state comptroller, 19, report of the adjutant-general, 7.

[81] *Annual Cyclopedia, 1897,* p. 756; Knoxville *Journal,* August 18, 23, 24, 25, September 1, 1892.

and the convening of the newly elected legislature in the early months of 1893.

The gubernatorial campaign of 1892 presented issues for consideration other than that of the convict lease system. In 1890, a division of the Democratic party, the Farmers' Alliance, had defeated the Bourbon or regular Democrats, and had won for its candidate the Democratic nomination. Afterwards, by careful maneuvering and by conciliation of the Bourbons, the group had elevated the nominee, J. B. Buchanan, to the governor's chair. This defeat had roused the Bourbons from their lethargy and by 1892 they were prepared to train all their batteries upon the Alliance and especially upon its leader, J. B. Buchanan. In spite of the union of the Farmers' Alliance with the People's party and the consequent nomination of J. B. Buchanan for governor, the Bourbon Democrats later were able so to build up their forces that they returned to power in 1892 by electing Peter Turney as governor. This study is concerned with the political phases of the gubernatorial campaign of 1892 only in so far as they reveal the influence of the coal miners' revolts and presage the overthrow of the convict lease system.

Because of the coal miners' revolts and of the laborers' obvious dissatisfaction with the convict lease system, it was early discerned that labor would have an important influence upon the state election of 1892. All of the parties were wise enough to express approval of the abolition of the lease system. The Farmers' Alliance, joined by a group from the People's party, in convention adopted typical labor demands, including the abolition of the lease system and the erection of a new penitentiary.[82] The candidacy of J. B. Buchanan was not favored by the state labor interests, since he had approved the continuance of the lease system and since he had voted against the child labor law.[83] Due to the miners' revolts, however, Buchanan's attitude had changed and he announced that he favored the abolition of the lease system in 1896, that is, upon the expiration of the lease contract. Buchanan was more favorable to the miners and laborers than was his opponent for the Democratic nomination, the Bourbon Democrat, Peter Turney.[84] The latter had incurred the enmity of the laboring classes while serving as chief justice of the state supreme court, when he had declared that leasing of the convicts was legal and that the coal mine operators could suspend mine operations if the checkweighman was not satisfactory. Prior to the state Democratic convention, Buchanan, realizing the futility of working for the Democratic nomination, withdrew and, in August, during the final revolt

[82]Joseph A. Sharp, The Farmers' Alliance and Tennessee Politics, 1890-1892 (master's thesis in typescript in University of Tennessee Library), 172-173; Knoxville *Journal*, March 1, 1892.

[83]Sharp, *op. cit.*, 189-191; Knoxville *Journal*, August 16, 1892.

[84]*Ibid.*, August 16, 1892.

of the coal miners, published his announcement as an independent candidate for governor. Both Turney, who won the Democratic nomination, and Buchanan announced platforms favoring, among other things, the abolition of the lease system at the earliest practicable date, but opposing such abolition until a better plan could be suggested which would not increase the tax load of the state.[85]

East Tennessee, the Republican stronghold in the state, did not support either Buchanan or Turney for governor. The general attitude of disgust toward Buchanan is reflected in an editorial in the Knoxville *Journal* on August 19, 1892:

> Sometime in the future, some one may allude to the years of the last decade of the nineteenth century, when there was a vacancy in the office of Governor of Tennessee and J. B. Buchanan was drawing the salary. He made himself a lasting name, for indecision, imbecility and general incompetency to discharge the duties of his high office.[86]

The Democratic Knoxville *Tribune* referred to Buchanan as the "best possible definition of everything that a Governor ought not to be. . . . From plague, pestilence and famine, from murder and from sudden death, and above all, from such Governors, Good Lord, deliver us".[87] Peter Turney was opposed by East Tennesseans because of his association with the so-called corporation or big business group. East Tennessee supported the Republican nominee for governor, George W. Winstead, a Dresden lawyer, who, along with the Republican platform, denounced the Democratic state government, "which fostered and protected the iniquitous convict lease system," described as a "speculation in blood and muscles" with an enormous "destructive influence upon free labor".[88] With reference to the convict lease system, Winstead declared that "Whatever the wisdom of the next legislature may suggest as the proper solution of the convict lease question, the lease system is wrong, eternally wrong, and must be abolished without delay". Thus all of the three chief candidates favored the abolition of the lease system as soon as practicable. From the first of the campaign, however, Buchanan stood little chance of reelection; and the Republican candidate also had to bow to the triumph of the Bourbon Democrats. The total vote was as follows: Turney, 126,348; Winstead, 100,577; and Buchanan, 29,918.[89]

Joined with the political parties in advocating the abolition of the convict lease system was the almost unanimous opinion of the public, the press, and state and municipal officials. Nashvillians heartily denounced the horrors of convict labor during the summer of 1892, when some Nashville officials contracted for convicts to construct some new sewers.

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[85] *Ibid.*, August 16, 1892.
[86] *Ibid.*, August 19, 1892.
[87] Knoxville *Tribune*, August 24, 1892.
[88] Knoxville *Journal*, August 24, 1892.
[89] Election figures are from the office of the secretary of state of Tennessee, cited by Sharp, *op. cit.*, 205.

The city council passed an ordinance, imposing a fine of fifty dollars for every day that the convicts worked. The lessees worked the convicts, were arrested, and were fined. The supreme court, in passing on the appealed case, held that such employment of convicts was illegal.[90] A continuous stream of newspaper articles denounced the lease system and demanded its overthrow.[91]

The General Assembly of Tennessee convened in regular session in January, 1893, and heard retiring Governor Buchanan urge the immediate abolition of the lease system; the erection of a modern penitentiary; and the acquisition of coal lands, where the convicts might work. The incoming governor, Peter Turney, recommended the abolition of the convict lease system in view of the recent troubles in Anderson county. These recommendations were substantiated by the prison officials' reports. The penitentiary officials insisted that radical changes be made in the system of penitentiary management. The superintendent of prisons, the state warden, and the prison physician emphasized the absolute necessity of a new penitentiary and the removal of the convicts from the mines, where they were in constant danger of being released by the irate miners.[92] Confronted with this disturbing information, the legislature appointed a special joint committee, which investigated the situation and which made a lengthy report, in which it "scored the penitentiary management from start to finish".[93] The committee pointed out that the convicts did not have night-clothes, pillows, or socks; that they were covered with running sores; that they had little or no medical attention; that they were fed on three or four cents per day per convict; and that brutal and degrading vices prevailed among the convicts at most of the branch prisons. The latter were described as nothing but "hell on earth". The zest with which the committee investigated the situation can be accounted for by its desire to discredit the preceding administration and because of the overwhelming public condemnation of the lease system. This was not a white-washing report, nor had it been a perfunctory investigation. The Knoxville *Journal,* summarizing the committee report, stated in an editorial:

> The mind fails to imagine any situation more awful, than that of the poor wretches, miserable outcasts, confined in prison for reformatory reasons. Insufficiently clothed and fed, confined in coal banks by day and pestholes by night, infested with vermin, days of wretchedness and nights devoid of hope, exposed to deadly and contagious venereal diseases, practicing unutterable abominations upon each other, subject to scourgings for failure to do the daily task or infractions of discipline . . . . what more awfully deplorable state of affairs can the human mind imagine?[94]

[90]Knoxville *Journal,* April 14, 27, October 30, 1892.
[91]*Ibid.,* August 21, 27, 1892; Clinton *Gazette,* January 12, 1892.
[92]*Senate Journal, 1893,* appendix, report of the penitentiary, 3, 5, 19, 65. Besides the financial loss, the prison officials were unable to recapture 150 of the released convicts.
[93]Knoxville *Journal,* March 9, 10, 1893.
[94]*Ibid.,* March 9, 10, 1893.

The committee's report received the immediate attention of the legislature and plans for the repeal of the lease law and for the instituting of a new system of prison management were discussed at great length. All the legislators were agreed that the change was necessary, but as to the most economical method of accomplishing the change, they found it difficult to decide. Finally, a penitentiary bill was passed, and signed by Governor Turney on April 4, 1893.[95] The act provided for the erection of a new penitentiary and for the abolition of the convict lease system. The new prison was to accommodate 1,500 and was to be constructed on the most modern plan. Coal lands were to be purchased, whereon some of the remaining convicts might be employed at the expiration of the lease contract in mining coal for the use of state institutions. The act provided for the appointment of a penitentiary committee, which was to carry out the provisions of the act.[96]

The penitentiary committee was appointed by the governor and proceeded to purchase coal land near Brushy Mountain, to visit and to study modern penal institutions, and to assist in drawing up the plans for the new prison. After the work of construction was begun, rumors of fraud became so insistent that Governor Turney requested the legislature to investigate the matter. This, in turn, resulted in the resignations of the committee members. An extra session of the legislature convened in the spring of 1895 and approved plans to complete the stockades at the state's coal mine, where the majority of the convicts were to be employed at the expiration of the lease contract in January, 1896. The rest of the convicts could be utilized in the erection of the new penitentiary. The penitentiary was completed in the fall of 1897, and by 1898 all of the convicts were located either there or at the state-owned Brushy Mountain mine stockade.[97]

In Tennessee, convict competition with free labor in the mine disappeared with the expiration of the lease contract in 1896. The miners remained peaceful after the final revolt in August, 1892, with the exception of a small outbreak at Tracy City in the spring of 1893, which was not serious and which was quickly settled. The act repealing the lease law and providing for its complete abolition in 1896 was satisfactory to the miners. Finally, in January, 1896, the convicts were permanently removed from competition with the free miners, not by the "shot-gun" method, but because the public had demanded it and the legislature had

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[95] *Ibid.*, January 12, 1893.

[96] *Acts, 1893*, ch. 77, pp. 96-105.

[97] Report of the penitentiary purchasing and building committee (in state capitol, Nashville); *House Journal, 1895* (Extra), governor's message, 3-4, 6, 8; *Acts, 1895* (Extra), ch. 7, pp. 606-614; *Senate Journal, 1895* (Extra), report of penitentiary committee, 873-875. These citations are contained in H. G. Stuneck, The Construction of the Penitentiary, 1893-1898, delivered as a report in a history seminar at the University of Tennessee.

provided for its legal termination. F. P. Clute, state commissioner of labor, wrote in 1896:

> The convict lease system in Tennessee, so far as it pertains to mining, is a thing of the past; all convicts have been removed from Tracy City and Coal Creek; their places will be filled by free miners. The long sought for event in the history of mining in this state occurred January 1, 1896, at the expiration of the lease with the Tennessee Coal, Iron and Railroad Company.[98]

In 1897, Governor Peter Turney reviewed penitentiary management during the preceding years with this conclusion:

> The state really made no money, but rather lost by leasing of convicts on account of riots, outbreaks and invasions. The prisoners were not so well cared for as now and they must continue to be under the regime. . . . In the short time since the termination of the lease, the contrast between the mental, physical, and sanitary condition of the prisoners, then and now, is so great as to make it certain that the present policy is a true one; and humanity demands its continuation. A return to the leasing law would be, after the experience we have had, cruel in the extreme.[99]

Thus the curtain fell upon the stirring events of the coal miners' insurrections, incited by the desire of the miners to strike a death blow at the unfair convict competition. These insurrections succeeded in bringing the necessary influence to bear upon the citizenry of the state, both private and official, and resulted in the overthrow by legislative action of Tennessee's iniquitious convict lease system.

[98]F. P. Clute, Fifth Annual *Report* of Bureau of Labor Statistics and Mines (Nashville, 1896), 7-8.

[99]*Senate Journal, 1897,* appendix, governor's message, 18.

THE HISTORICAL BACKGROUND OF TENNESSEE'S ADMINISTRATIVE REORGANIZATION ACT OF 1923*

By Franklin O. Rouse

In 1870 the citizens of Tennessee through a convention adopted a new constitution which provided, among other things, for four state administrative officials as they had formerly existed—the governor, secretary of state, treasurer, and comptroller. Only three other offices already in existence were carried over and continued by statute along with the new constitution—those of the superintendent of the capitol, of the assayer, and of the internal improvement commissioner. The duties of the latter, however, were performed by the secretary of state. The constitution did provide for a fifth official, the adjutant general, to be at the head of the militia, but he is not technically classified as being in the executive department, although he is appointed by the governor and is engaged in the enforcement of the laws.

In the fifty years next succeeding the adoption of the constitution the administrative agencies of the state increased tenfold. It seems that every time that the state government undertook a new function the legislature would create an independent agency to perform it, regardless of whether it could be performed by an already existing agency or whether it would result in an overlapping duplication or a consequent shift of responsibility and neglect of performance. At any rate, this procedure brought on waste and inefficiency. A glance at the chart shows many illustrations of the duplication of work, lack of organization, confusion as to performance, waste in expenditures, unnecessary officials and costs of operation, and other features subject to just criticism. A brief summary of some of the more obvious facts will suffice to illustrate the deplorable state of administration.

For purchasing supplies for state functions there were agents for the highway department and independent agents for the board of administration. The secretary of state procured the supplies and equipment for the legislature and the state officials quartered in the capitol. A state printing commission attended to the printing of all public documents

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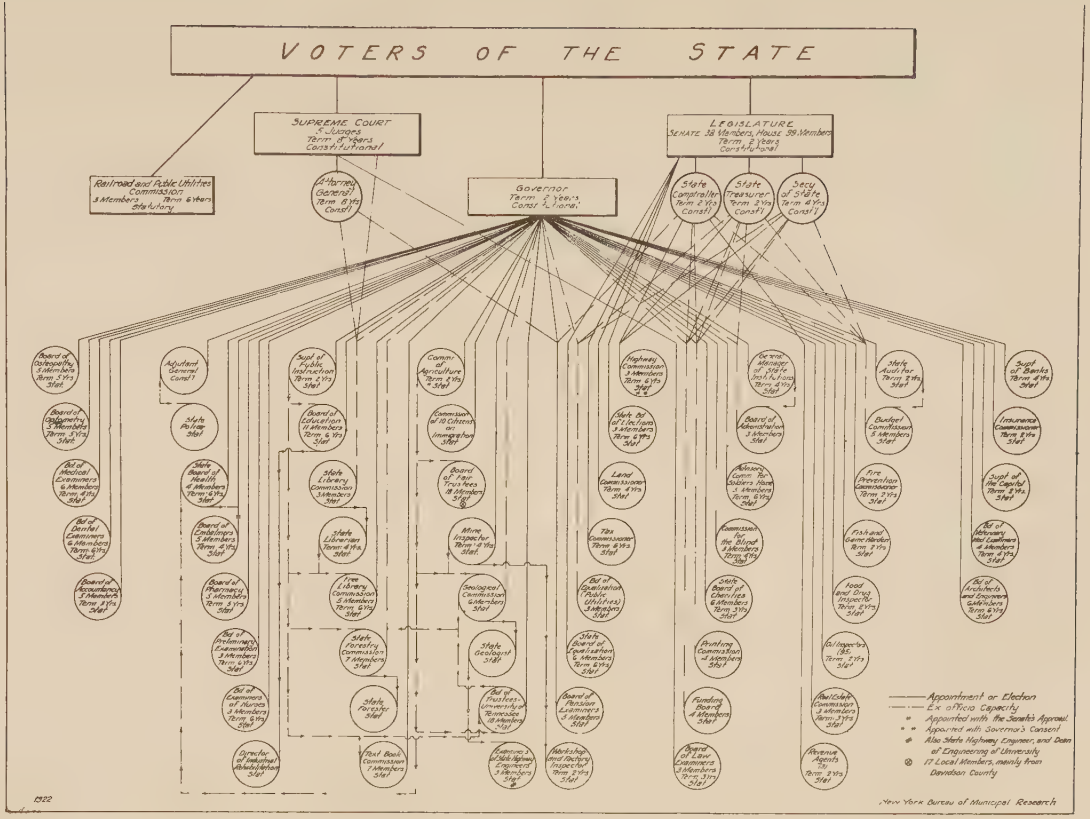
VOTERS OF THE STATE
SUPREME COURT
5 Judges
Term 14 Years
Constitutional
LEGISLATURE
SENATE 38 Members, HOUSE 98 Members
Term 2 Years
Constitutional
Railroad and Public Utilities Commission
3 Members
Term 6 Years
Statutory
Attorney General
Term 4 Yrs
Const'l
Governor
Term 2 Years
Const'l Const.
State Comptroller
Term 2 Yrs
Const'l
State Treasurer
Term 2 Yrs
Const'l
Secy of State
Term 4 Yrs
Const'l
Appointment or Election
Ex officio Capacity
Appointed with the Senate's Approval
Appointed with Governor's Consent
Also State Highway Engineer and Dean of Engineering of University
17 Local Members, mainly from Davidson County
1922
New York Bureau of Municipal Research

and an emergency board made estimates and allocated funds for replacement purposes in connection with the buildings under the control of the board of administration.

The duty of preparing forms for taxation purposes was lodged partly in the state comptroller and partly in the tax commissioner. The equalization of property valuations apparently could be done by the tax commissioner or by the equalization board. The collecting of taxes was done by scattered agencies, even the comptroller sharing some of the responsibilities by collecting inheritance, news, and utility privilege taxes.

The commissioner of agriculture acted as commissioner of immigration and as a member of the immigration commission, performing duties which under the federal government are allocated to the department of labor. The statutes by a conflict designated both the secretary of state and the commissioner of agriculture as internal improvement commissioner without any intimation that they should act in concert. Although there was a state assayer, the commissioner of agriculture had supervision over much of the chemical laboratory work of the state. The commissioner of agriculture was on the state board of health without a clear show of reason except legislative *fiat*. There were independent bureaus of game and fish, and of forestry. The department of agriculture performed many functions which logically would have fallen within the purview of the department of labor.

Closely cognate with the educational field, but acting as independent agencies, were the state library commission, state librarian, free library commission, and the geological commission, not to mention various examining boards, the historical committee, and the land commissioner.

In the domain of corporation control it is to be observed that investment companies were under the supervision of the secretary of state, while building and loan associations were under that of the state treasurer. Banks and kindred institutions were supervised by a superintendent of banks, and insurance companies by an insurance commissioner. Railroads and utilities were regulated by the important body called the railroad and public utility commission.

Another group of independent bureaus, which might well have been consolidated under the head of labor, were those of mine inspection, mining statistics, workshop and factory inspection, safety inspection of hotels, and fire prevention.

The instances just cited, but a few out of many such, readily explain why, in the years following the turn of the twentieth century, there existed general unrest and dissatisfaction as to the government of the state, particularly with reference to the administrative system as represented in the diagram placed at the beginning of this article. It was felt that the

executive department was top-heavy with overlapping and disorganized agencies that were resulting in great waste. There had been a deficit averaging around one million dollars during almost every year since 1907.[1] Legislatures had appropriated boldly, but had levied taxes timidly. Governors had been unable to set up an effective control over state finances and administrative agencies, or to cope with legislative extravagance.

In 1915 the state debt, totaling almost twelve million dollars, was refunded[2] and a million dollar deficit was taken up and long term bonds were issued to cover it.[3] This amounted to borrowing money by the issuance of long-term bonds to pay the current running expenses of the state government—a procedure that is positively to be condemned by sound practice.

Every gubernatorial campaign was filled with promises to remedy the financial situation of the state government and thus bring relief to the taxpayers of the state. The main issue in the campaigns of 1914, 1916, 1918, and 1920 was the setting up of a state tax commission. In 1919 the legislature created a state board of equalization composed of the members of the railroad commission.[4]

By 1920 it was apparent to all that the state's finances were in a muddle. Taxes were necessarily mounting higher, though land values were toppling and agriculture was suffering as probably it had never suffered before. In the election of that year Alfred A. Taylor, the Republican candidate for governor, won by an unprecedented majority. In fact, so great was the dissatisfaction, especially among the farming and landowning classes, that the Democratic state ticket carried the national ticket down to defeat within the state; for the first time a Republican candidate for president had won Tennessee's electoral votes.

Governor Taylor's administration was hampered by legislative action in withholding much patronage and responsibility from him. It was made plain that a governor from a minority party and a legislature from a majority party could bode no good for the state. Friction was unavoidable. The legislature, however, did create a separate board to be known as the state board of equalization and also the office of state tax

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[1]Governor Tom C. Rye discussed fully this fact in his message to the 61st General Assembly in 1919 (*Journal of the House of Representatives of the State of Tennessee, 1919* [Nashville, 1919], 14-39. Hereafter cited as *House Journal*). For later years see *Report of the Treasurer of the State of Tennessee, Biennial, 1919-1920* (Nashville, 1921), pp. 8-9; *1922-1924* (Nashville, 1925), pp. 9-10. Hereafter cited as *Treasurer's Report.*

[2]*Public Acts of the State of Tennessee passed by the Fifty-ninth General Assembly 1915* (Jackson, Tenn., 1915), ch. 58, p. 149, ch. 67, p. 190. Hereafter cited as *Public Acts. Treasurer's Report, 1915-1916,* pp. 6-7.

[3]*Ibid., 1916,* p. 7.

[4]*Public Acts, 1919,* ch. 1, p. 1; *Report of the Railroad and Public Utilities Commission, 1919-1920* (Nashville, 1921), 5.

commissioner,[5] thus separating the duties of the board from that of the railroad commission, which had been given the additional duties of the public utilities commission.[6]

A large share of the state's income was derived from levies on general property, which consisted mainly of agricultural lands and improvements thereon. Likewise, the money that was used in running each of the ninety-five county governments in the state came very largely from levies on the general property in the respective counties. In addition to this, the cities of the state also levied taxes on the general property within their corporate limits in order to procure money for carrying on their governments. The aggregate of these levies, as imposed upon the general property owner, had become quite burdensome in some sections of the state.

The total assessed valuation of general property in the state in 1922 was $1,730,828,183.[7] The total county taxes were $17,504,716, which gave an average county tax rate of $1.01 on each $100 assessed valuation.[8] The aggregate state tax rate was thirty-six cents on the $100[9] and the total state tax was $6,230,981.[10] This amount was more than one-third of the total county taxes, and the annual tax burden for state and county purposes was over $23,735,000. Something had to be done to lighten the burden on general property and, if possible, leave such to bear directly only the tax burden of the local governments, that is, the county and city governments.

The distribution of the state revenue from the general property tax for 1922, according to the special purposes to which it was allocated by law, was as follows: of the total state tax rate of thirty-six cents on the $100, seventeen cents was for the general fund, eight cents for schools, five cents for the university, five cents for highways, and one cent for state fairs. One-third of the seventeen cents for the general fund went to schools, so that only eleven and one-third cents were left for the general purpose of government.[11] In other words, the eleven and one-third cents, amounting to $1,961,605, was all the revenue from the taxation of general property that could be appropriated by the legislature to the general activities of the state government according to a budget plan. Of the $6,230,981 raised for the state by general taxation, 68.5 per cent, or $4,269,376, was dedicated to special purposes before the tax was levied.

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[5] *Public Acts, 1921,* ch. 113, p. 263.
[6] *Ibid., 1919,* ch. 49, p. 143; *Report of the Railroad and Public Utilities Commission, 1919-1920,* p. 4.
[7] *First Biennial Report State Tax Commissioner, 1921-1922* (Nashville, 1923), 314, table 7, p. 302. Hereafter cited as *Report State Tax Commissioner.*
[8] *Ibid.,* 302.
[9] *Ibid.,* 319.
[10] *Ibid.,* 314.
[11] *Ibid.,* 318-319.

Education alone received $3,230,879, or 51.8 per cent of the total amount levied by the state.[12]

In 1917 the legislature began the policy of laying special levies for certain purposes. That year there were voted levies of ten cents for highways and five cents for the university. In 1919 a levy of five cents for schools was voted; in 1922 a levy of one cent for state fairs was authorized. In 1916, before any special levies had been made, the general levy was thirty-five cents. When the valuation of general property was more than doubled in 1920 under the new assessment system, the general levy went down to less than one-half what it had been, to be exact, to fourteen and three-quarter cents. Yet the special levies boosted the total rate to twenty-six cents. In 1921 the general levy went up to seventeen cents and special levies raised the total rate to thirty-five cents. Then in 1922 the total rate rose to thirty-six cents, because of the addition of the special levy for state fairs.[13] The total tax rate, therefore, was higher in 1922 than it had been in 1916, despite the fact that the total valuation of property was more than two and one-half times what it had been six years earlier.

The way in which the money was handled after being collected was little short of abominable. An agency of the state government would come before a committee of the legislature and ask for a levy amounting to a few cents on each $100 of general property valuation and the legislature, upon the recommendation of the committee, would vote the levy, perhaps without considering that even a one-cent levy would raise over $173,000 on the basis of the valuation at that time. When the money from the levy came into the state treasury, it would be turned over to the agency and the legislature would be furnished very little, if any, detailed information as to how the money was expended. Especially did this method of handling funds prevail in the case of special levies.

Also, considerable sums collected by certain state departments and institutions would be held by them and expended without being turned into the state treasury. To cite but a single instance, the expenses of the fire prevention department were withheld, which amounted to $88,360 for 1922.[14] The collection and use of moneys by departments and agencies without turning them into the state treasury is generally considered bad practice. In the case of Tennessee it is apparent that there was not complete supervision or control over all the moneys of the state government, because some portions thereof neither passed through nor were accounted for by any one central office.

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[12]A. E. Buck, State Survey, 1922, p. 4. Typescript in Tennessee State Library, Nashville.

[13]*Report State Tax Commissioner, 1921-1922,* pp. 318-319.

[14]Buck, *op. cit.,* 9.

Petty extravagance of the legislature is shown when it is stated that the 1921 General Assembly employed no fewer than fifty-eight engrossing clerks. These clerks, receiving for this one session $15,056 in salaries,[15] would write out in long-hand the bills that were to be introduced in each house! During the same session the Senate employed nine porters and the House fifteen, at a total expense of $4,472 for the session.[16]

There were 276 officials and employees connected with the administration of the sixty-four offices, departments, boards, commissions, and agencies of the state government as they existed in 1922. This figure does not include a large number that served *ex-officio*. Of the 276 officials a majority were receiving regular salaries, totaling $144,570 a year. Most of the remainder received *per-diem* compensation, ranging from five to ten dollars, and expenses. Under these officials were at least 898 employees, receiving wages totaling $827,200 a year. This gives a minimum total of 1,174 officials and employees, with total annual salaries reaching $1,071,770.[17]

With such gross extravagance in expenditures it can easily be imagined that citizens interested in good government were greatly concerned. Some were seeking a practical way to relieve the situation in Tennessee. Among the seekers was Daniel Earl McGugin, a prominent lawyer, football coach, and civic leader of Nashville. In the fall of 1920 he was elected state senator from Davidson county. Soon thereafter he made a business trip to Chicago. While there some friends told him of the recent reorganization of state government in Nebraska and in Illinois, emphasizing Governor Frank O. Lowden's work in the latter state in 1917-1919. These friends further informed him of the National Municipal League of New York City, explaining that it was a non-profit research society for the advancement of better government. When he returned to Nashville he joined the league and read studiously its monthly magazine, the *National Municipal Review*.

McGugin was, at that time, counsel for a certain state wide industrial organization,[18] whose officials he succeeded in interesting in the movement for better and more economical government in Tennessee. Through the combined efforts of the secretary of this organization, the then president of the local Rotary club, Graham Hall, the secretary of the chamber of commerce, Will R. Manier, and attorney McGugin himself, steps were taken to push the movement toward its ultimate aim—the passage of an administrative reorganization bill.

An increasingly popular contemporary movement was that directed toward gaining a new charter for the city of Nashville. McGugin was

[15] *Public Acts, 1921,* miscellaneous appropriation bill, ch. 112, pp. 246, 249-250.
[16] *Ibid.*, 247, 250.
[17] Buck, *op. cit.*, 12-13.
[18] At its request the name of the organization is withheld.

not only interested in this, *per se,* he also capitalized it as a means of drawing attention to the need for a reorganized state administration. So favorable did the situation appear that he decided to introduce a reorganization bill in the 1921 session of the General Assembly. His colleague, Charles Simpson, representative in the House, along with a few other representatives, were interested in the movement and thought it advisable to introduce a bill in both houses during the coming session, if for no other purpose than to acquaint the members with the plan of reorganization.

Thus it came about that Mr. A. E. Buck, of the New York Bureau of Municipal Research and of the National Institute of Public Administration, was invited to come to Nashville for a brief conference. In the latter part of 1920 Mr. Buck made a cursory survey of the old system of government and helped Senator McGugin and Representative Simpson draw up a bill.[19]

They had little hope, however, of getting such a bill passed at that time because of its rather radical proposed changes and because of the political differences between the Republican Governor Taylor and the Democratic General Assembly. Nevertheless, late in the session, March 23, 1921, Senator L. E. Womack introduced the bill in the Senate and Representative Simpson in the lower house.[20] The bill met with more favor than had been expected, but it failed to reach final action.[21] Its provisions were similar to those later embodied in Mr. Buck's recommendations to Gover Austin Peay.

After the bill failed on second reading little was done by its promoters until the following year. Then, March 13, 1922, at a meeting of the board of governors of the Nashville chamber of commerce, Senator McGugin explained the reorganization bill which had been introduced in the 1921 legislature, stating that it had been drawn up in accordance with the recommendations of an expert. He declared that under the bill

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[19]Minutes of meeting of board of governors, Nashville chamber of commerce, March 13, 1922. Typescript in office of Nashville chamber of commerce.

[20]*Senate Journal of the Sixty-second General Assembly of the State of Tennessee which convened at Nashville, Monday, January 3, 1921* (Jackson, Tenn., n. d.), 772. Hereafter cited as *Senate Journal.* No record is found in the *House Journal,* but the original bill is in the legislative files of the office of Charles H. Simpson, Municipal Paving Company, Cotton States Bldg., Nashville, Tenn. (Simpson's death occurred April 17, 1934, since this information was obtained.)

[21]In reply to a request of the House the governor outlined eight specific administrative changes that he suggested might be made in order to reduce governmental expenses: (1) A central tax commission; (2) such tax commission would relieve the railroad commission of its taxing duties; (3) substitution of one man for the work of the three members of the state highway commission; (4) repeal of the state constabulary law; (5) abolition of the back-tax system; (6) the pure food and drug department should be made a bureau in the department of health; (7) making the fire prevention department a bureau in the department of insurance; (8) the horticultural activities should be merged with the division of entomology and placed in the agricultural department (governor's message, *House Journal, 1921,* pp. 537-41; *Senate Journal, 1921,* pp. 521-24).

already prepared there would be a possible saving to the state of something like one-half million dollars annually.[22] He suggested that the chamber of commerce take the matter up and press it to an issue in 1923. Thereupon, the board resolved that a committee take charge of the matter; at once it was referred to the public welfare committee.

At the first meeting of the chamber's public welfare committee, following its new assignment, realizing the enormous task lying ahead, it outlined a tentative course to be followed in order to make a careful and sound study of the situation. A suggestion was made that copies of pertinent laws of other states be secured as well as statements from their governments as to the benefits derived from administrative reorganization. It was pointed out that someone should be employed who had both the ability and the time to study the question comprehensively—first, as to the conditions that then existed, and second, as to the remedy to be applied. A motion was adopted that the secretary correspond with the larger chambers of commerce in the state and ask if they were willing to join Nashville's in financing such a move.[23] When the letters were sent out, however, the only favorable reply that was received was from the Knoxville chamber of commerce, with a subscription of two hundred dollars.[24]

At a later meeting of the public welfare committee it was suggested that the secretary get in touch with the large commercial organizations of the state, asking co-operation in expenses and in efforts to be made later to obtain passage of the bill through the legislature. Although letters were sent out, little aid was secured from this source.

Another line of agitation running parallel with the activities of the chamber of commerce was that of the above-mentioned state wide industrial association. In sending out the announcement of its convention to be held in Nashville on June 5 and 6 the president designated the theme for the meeting as "Good Government and Better Business."[25] It was thought that through this channel interest could best be aroused among the business men throughout the state. The program for this meeting was filled with speeches dealing with the government of Tennessee, with the keynote address being delivered by Dan E. McGugin on "Reorganization of State Departments." Special efforts were made, and partially realized, to have present at the convention not only delegates of its immediate group but also representatives from such other lines of

[22]Minutes of meeting of board of governors, Nashville chamber of commerce, March 13, 1922.

[23]Minutes of meeting of public welfare committee, April 11, 1922, Nashville chamber of commerce, in Committee Minutes, Janury 3rd to December 29th, inclusive.

[24]Minutes of meeting of board of governors, Nashville chamber of commerce, September 14, 1922.

[25]Nashville *Banner*, April 30, 1922, p. 2.

business throughout the state as farming, banking, selling, railroads, and the press.

About 400 attended the convention. It adopted resolutions condemning the existing system of state government and favoring reorganization and consolidation of the state administrative machinery so as to obtain centralized and conspicuous responsibility.[26] A steering committee was later selected to handle the matter in a suitable way.[27] Its efforts were coordinated with those of the public welfare committee of the Nashville chamber of commerce. The secretary of the industrial organization sent a formal letter to every candidate for the General Assembly, asking his support if elected.

Another source of organized interest was expressed when representatives at an "Inter-City" chamber of commerce meeting, held in Nashville on October 18, 1922, discussed, among other things, the question of state administrative reorganization. They passed resolutions favoring the movement and favoring the lending of their efforts to the preparation and passage of proper legislation to that end.[28] Such efforts consisted mostly of interviewing, personally or by mail, the various candidates for the legislature and securing their views on the question.

The main work of the promotion movement, however, was carried on by a sub-committee of the public welfare committee of the Nashville chamber of commerce, with representatives of the above mentioned organizations in attendance at some of its meetings. As the agitation had not attained sufficiently widespread interest, even in Nashville, it was decided that the best policy would be not to inject the issue of reorganization into the gubernatorial campaign at all. After the election in November the winning candidate could be presented with a thorough survey of the old system and a definitely formulated plan for reorganization and consolidation.

The candidates for governor were Alfred A. Taylor, incumbent Republican, and Austin Peay, Democrat. Governor Taylor at various times during his campaign made reference to reorganization, but never proposed a reorganization approaching the wide sweep which was later made. As for Austin Peay, he was probably not aware of the intensity of the movement in Nashville; at any rate, he was even less drastic in his proposals than was his opponent.

In accordance with the plans of the committee, Mr. A. E. Buck spent several weeks during October and November intensifying his survey and formulating plans for reorganization of the state government. His expenses and compensation, at the rate of twenty-five dollars a day, totaled

[26] *Ibid.*, June 6, 1922, p. 1.
[27] Nashville *Tennessean*, June 9, 1922, p. 6.
[28] *Ibid.*, October 18, 1922, p. 20.

almost a thousand dollars. These were paid by the Nashville and Knoxville chambers of commerce, the above mentioned industrial association, Dan E. McGugin, and possibly a few other individuals.

On November 6, Mr. Buck made his first report to the committee and received approval of his progress. Two days later Austin Peay was elected governor by a majority of almost 40,000 votes. On November 13 Mr. Buck presented to the subcommittee his final report, including a proposed bill embodying his recommended reorganization of Tennessee's state administration.[29] It was decided that within a very few days the whole matter should be brought to the attention of the governor-elect.

Sometime during that very week a committee, composed of Professor Gus Dyer, Paul Sloan, V. Tyler, and some others, went to the Peay home in Clarksville and explained the proposed plan. As this was an even wider application of reorganization than the governor-elect had advocated and as it fitted in so well with his progressive plan of government, he accepted the proposal immediately. Furthermore he asked that Charles Manier, secretary of the Nashville chamber of commerce, write to Mr. Buck at once, requesting that he come to Clarksville to discuss with him the facts obtained in his survey.

In accordance with arrangements made by Mr. Manier, Mr. Buck came to Clarksville on December 4,[30] and remained with the governor-elect several weeks. It was then that he wrote his survey embodying the information he had turned over to the chamber of commerce. With Peay he discussed at length administrative reorganization plans in other states, the deficiencies of Tennessee's existing system, and the detailed recommendations which he offered to correct these deficiencies.[31]

On January 16, 1923, Austin Peay was inaugurated governor of the state of Tennessee. The next day he gave his first message to the legislature. He reviewed the party platform of twelve planks as given in his

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[29]Minutes of meeting of public welfare subcommittee, November 13, 1922, Nashville chamber of commerce.

[30]A. E. Buck to Governor-elect Austin Peay, November 27, 1922. Letter in the Peay papers in the Tennessee State Library, Nashville.

[31]Some of Mr. Buck's recommendations were either altered or omitted from the bill that reached and passed the legislature. The principal departures from his plan may be listed as follows: (1) The duties of the two later distinct departments of labor and institutions he would have combined into a department of labor and industry. A department of public welfare which he recommended was not included, its duties being distributed among various divisions under the other departments. A separate department of insurance and banking was created in its place, whereas he had recommended that these functions should be placed in the department of labor and industry. (2) The commissioners should be appointed by the governor with the approval of the Senate, yet they should be subject to removal at the pleasure of the governor alone. (3) The bureau and division heads should not be changed with each administration, but should serve as long as they performed satisfactory and efficient service. (4) He did not propose assistant commissioners. (5) He proposed only seven departments, hence the final addition of another department necessitated the shifting of a few of his proposed subdivisions (Buck, *op. cit.*, 17).

opening campaign speech. For the plank proposing the elimination of useless offices, he substituted an administrative reorganization program. Considerable space in the message was devoted to plans for reorganizing the taxation and highway departments in particular. There was general comment on the other campaign promises. Then the message closed with a strong plea for support of the reorganization plan.[32]

On January 18 the speaker of the House, F. S. Hall, introduced the governor's bill providing for reorganization of the state's administrative machinery. The bill was passed on its first and second readings and referred to the committee on finance, ways and means.[33] On January 22-23, that committee held a hearing on the bill, at which were present a number of state officials. Present, also, was Mr. A. E. Buck, who explained the general provisions and defended the bill against a battery of questions from the committeemen and from others as to its far reaching effects. The provisions eliciting the most questions were those dealing with the tax system and with the granting of appointive power to the governor without confirmation by the Senate.[34]

When the bill came up for consideration before the House, a total of sixteen amendments was offered. One of these amendments was that the state comptroller should collect back taxes and exercise the duties of the state revenue agents. A second would authorize the state purchasing agent to give permission to purchase locally supplies, materials, and equipment. These first two were adopted. A third amendment provided that commissioners should be appointed by the governor and confirmed by the Senate. Contrariwise, a fourth looked to the popular election of commissioners for two-year terms. The last two amendments mentioned were rejected.[35] The other twelve proposals were less important. Of the sixteen proposed amendments, twelve were adopted. When

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[32] *House Journal, 1923,* governor's message, 108; Nashville *Banner,* October 1, 1922, p. 10.

[33] *House Journal, 1923,* pp. 139, 156. The introduction by the speaker of measures sponsored by the administration is customary.

[34] Nashville *Tennessean,* January 22, 1923, p. 1; January 23, 1923, p. 2.

[35] *House Journal, 1923,* pp. 190-194.

the bill was finally put to a vote, seventy-three members of the House voted aye, sixteen no, and there were four present who did not vote.[36]

On the same day that the reorganization measure had been introduced in the House a similar bill was introduced in the Senate by Speaker E. J. Bryan.[37] On second reading it was referred to the committee on judiciary.[38] The next day the Senate substituted the House bill for its own, because the Senate had concurred with the House in every detail.[39] The Senate's final vote on the measure was twenty-five ayes, four noes, and one member present but not voting.[40]

The speaker of the House signed the bill on January 26 and the speaker of the Senate on January 31. The governor signed the bill on January 31, thus bringing to a close a rather smooth journey through legislative procedure for such a momentous measure.[41]

The provisions of the new enactment were to go into effect on February 1, 1923. That day Governor Peay announced his appointments to the various departments as follows: commissioner of finance and taxation, James D. Senter of Gibson county; commissioner of agriculture, Homer S. Hancock of Wilson county; commissioner of education, P. L. Harned of Montgomery county; commissioner of highways and public buildings, J. C. Creveling, Jr., of Davidson county; commissioner of labor, Ed M. Gillenwater of Knox county; commissioner of institutions, Lewis S. Pope of Bledsoe county; commissioner of health, Dr. Charles B. Crittenden of Davidson county.[42] These men took office immediately and began con-

[36] *Ibid.*, 194. In explaining their negative votes on the reorganization bill House members made grave charges. These were that "The bill is unconstitutional . . . ." [It is] "undemocratic, unjust and unfair; . . . ." "It vests unbridled autocratic power in the hands of the Governor; . . . ." "It makes possible and perhaps certain, the creation of the most dangerous, tyrannical political machine ever set in motion; . . . ." "It destroys the dignity of public office in Tennessee and reduces every state official, save the Governor himself and those elected by the people and those selected by the Legislature under the constitution, to a status of mere hirelings at will; . . . ." "It robs every public official of independence of thought and action, and makes him whether he would or not, the willing tool and pliant servant to do the bidding of the chief executive under fear of dismissal from office; . . . ." "It destroys tenure of office and abolishes absolutely the right to hold office with a feeling of security and performance of public service fearlessly and courageously; . . . ." "It makes the public official a servant of the Governor instead of the servant of the people; . . . ." "It parades under the livery of economy and falsely pretends to abolish offices, bureaus, departments and boards, when as a matter of fact these governmental agencies are recreated with added powers and higher salaries" (*ibid.*, 196).

[37] *Senate Journal, 1923,* p. 126.

[38] *Ibid.*, 136.

[39] *Ibid.*, 186.

[40] *Ibid.*, 191. As there were no differences to smooth out a House-Senate conference committee was unnecessary. When the upper house voted on the proposed amendment requiring the Senate's approval of the governor's choice of commissioners, the vote stood twenty-one to eight against such approval. Further amendments by the Senate were of minor importance.

[41] *Public Acts, 1925,* ch. 7, p. 44.

[42] Nashville *Banner,* February 1, 1923, p. 1.

solidating the maze of state bureaus and departments into a harmonious whole.

Early in the movement for the reorganization bill, it became apparent that court action was unavoidable. It was not long after the introduction of the bill into the House until it had become evident that it would go through. Then it was that a movement was started to challenge the act in court just as soon as it was passed. The promoters of the attack were the members of the politically powerful back-tax organization, the state tax commission, and certain elements of the state highway department. These formed a nucleus, about which gathered still other discontented and ousted elements.

The very day that the reorganization measure became law three bills were filed in Part One of the chancery court of Davidson county, praying for a temporary injunction to restrain certain of the new commissioners from taking over their duties and that the new enactment be declared unconstitutional. These three bills were later combined into one, known as House *v.* Creveling.[43] The bills of complaint alleged, among some fifteen or twenty claims in all, that (1) House Bill No. 183, embodying the reorganization plan, violated Article 2, section 17, of the state constitution in that (a) it contained more than one subject, (b) the body of the act was broader than the caption, and (c) it undertook to repeal former laws without reciting in its caption or otherwise the title or substance of such laws; (2) that it attempted to regulate matters of a judicial and legislative nature; and (3) that it deprived officers of their property rights to hold office.[44]

On February 12, 1923, Chancellor John R. Aust handed down his decision. He held the act to be constitutional and valid in every point argued except section fourteen, a minor provision relating to appropriations. Since it involved a constitutional question the case was appealed directly to the state supreme court. This tribunal, in rendering its decision on March 31, affirmed and upheld in every respect the decision of the lower court,[45] thus disposing of a very important case on state administrative reorganization.

Naturally, the pendency of the case of House *v.* Creveling had hindered the work of the newly appointed commissioners for two months.

[43]House *v.* Creveling, 147 Tenn. 589-611. The injunction was sought by W. W. House, W. T. Testerman, and W. P. Moore, all members of the old state highway commission, against J. G. Creveling, Jr., commissioner of highways and public buildings; by Warden J. T. Lynn of the main prison against Lewis S. Pope, commissioner of institutions; and by R. V. Louthan, E. C. Alexander, E. T. Killebrew, and J. L. Littleford, all members of the old state board of equalization, against J. D. Senter, commissioner of finance and taxation.

[44]*Ibid*, 589-611.

[45]*Ibid.*, 589-611. The printed opinion of the court did not state specifically the ground on which section fourteen was held unconstitutional.

The supreme court's decision, however, set at ease the whole administrative machinery and resulted in more intensive action in carrying out the program of reorganization.

The New York Bureau of Municipal Research has stated that by experience in actual practice there have been developed four standards that should be sought in the organization, or reorganization, of the administrative machinery of a state government.[46] These standards deserve some attention. (1) Functional departmentalization of administrative agencies. By this is meant that there should be a few departments, not to exceed twelve or fifteen, each of which should comprehend a major function of government, as agriculture, finance, or health, with appropriate bureaus and divisions for closely related work. The number and character of the departments would be determined by conditions within the particular state. (2) Fixed and definite lines of responsibility for all departmental work. Each department, that is, should have at its head a single officer appointed by and removable by the governor, so as to fix responsibility for the administrative work and thereby make the governor the responsible executive head of the state. The heads of the departments should constitute the governor's cabinet or advisory board. Likewise, there should be a responsible head of each of the bureaus and subdivisions. (3) Coordination of the terms of office of administrative officials. The point here is that their terms generally should be co-existent with that of the governor, or at his pleasure. (4) Undesirability of boards as administrative agencies. Such is so regarded because of the division of powers, lack of initiative, and lack of individual responsibilty. *Ex-officio* boards have proved inefficient. An advisory or inspectional board within a department, however, may serve a useful purpose.

The purposes of Tennessee's reorganization measure, as indicated in its caption, were to secure better service, and to promote economy and efficiency in the work of government by creating, establishing, and consolidating certain departments and offices, by prescribing their powers and duties, and by abolishing certain other offices, boards, and commissions. As will appear from what follows, Tennessee's reorganization act of 1923 is in harmony with the four standards set up by the New York Bureau of Municipal Research.

Fortunately for the well wishers of the new measure, there was little if any restriction contained in the state constitution to hinder the plan of reorganizing the structure of the governmental machinery. Unlike a few other states which had attempted a reorganization program, the functions of Tennessee's government were to some extent compact and cognate by groups so as to permit the classification of related functions

[46]A. E. Buck, *Administrative Consolidation in State Governments* (New York, 1930), 5-6.

under a few heads. A diagram of the present Tennessee state governmental machinery shows it to be the smallest and most complete skeleton of all the state governments.

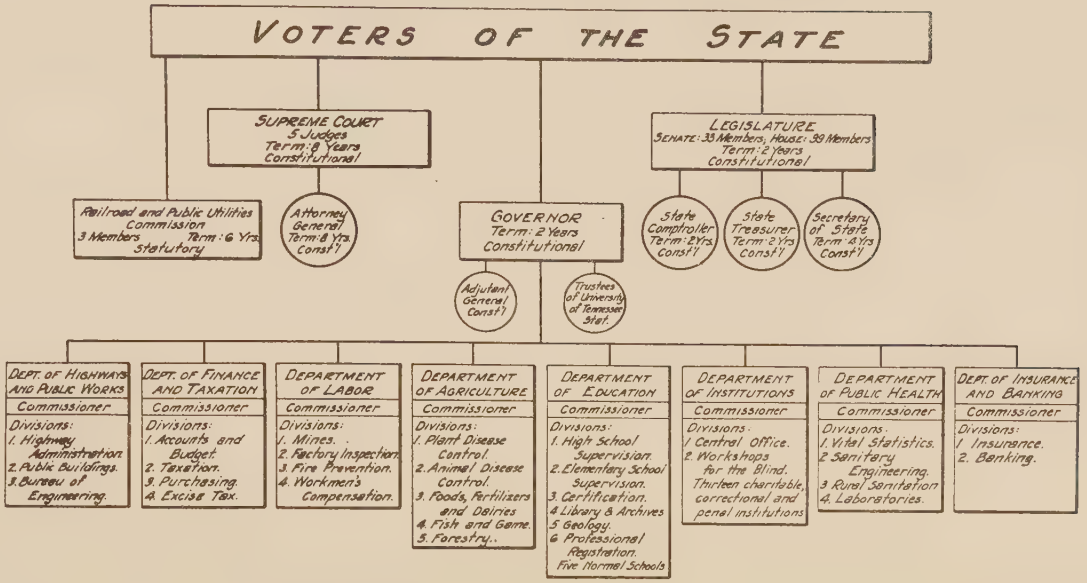
From the chaotic assortment of approximately sixty bureaus, commissions, boards, and agencies making up the administrative machinery of the state in 1922 it was found that forty-nine of their functions could be consolidated into eight general departments. Functions of kindred nature were, therefore, placed in their proper places under the following heads: finance and taxation, agriculture, highway and public works, education, institutions, public health, insurance and banking, and labor. This classification covers all the administrative functions of the state government with the exception of its jurisdiction over railroads and public utilities, military activities, examining boards, and possibly a few temporary boards or commissions of minor importance. A railroad and public utilities commission was created by statute.[47] The three members, one from each of the grand divisions of the state, are elected by the people. The commission, not responsible to the governor, is limited in fact only by statutory enactment and by the appellate judicial power of the supreme court. Military affairs are controlled by constitutional direction under the supervision of an adjutant general. The logic of having examining boards could not be improved; to use but one example, the qualifications of prospective physicians could hardly be more intelligently passed upon than by a board of skilled and learned medical men.

Each group of consolidated functions was made a department with a single head in full charge. Under the reorganization act the commissioners, as they are designated, are appointed by the governor to hold office during his term and until their successors are named; they may be removed, however, at his pleasure. More recent legislation directs that the governor's appointments must be confirmed by the Senate.[48] Nevertheless, the confirmation clause applies only when the Senate is in session; in reality, therefore, it would apply only in the case of the governor's first appointments, for in regular course there is only one session of the legislature—at the beginning of the term—during his two-year tenure of office. To counterbalance in part this weakness inherent in the system, provision is made that the governor must show cause for his action in discharging a commissioner and allow him a public hearing to defend himself. In defense of the investment of the governor with these powers, it may be said that since constitutionally he has the supreme executive power of the state, he should have some check on all of his subordinates.

Each commissioner has full power and jurisdiction over his department except for the statutory limitations that he must make reports and that

[47] *Public Acts, 1919,* ch. 49, p. 143.
[48] *Ibid., 1933,* ch. 92.

TENNESSEE
ORGANIZATION OF STATE GOVERNMENT UNDER THE REORGANIZATION ACT OF 1923



he is responsible to the governor unless otherwise provided. He appoints all of the department's subordinate officers and employees, but in accordance with employment regulations as determined by the department of finance and taxation, and subject also to the approval of the governor.

It appears, then, that the new structure of the Tennessee state government meets the first standard of organization as established by the Bureau of Municipal Research, that of functional departmentalization of administrative agencies.

The second of the bureau's standards, that of fixed and definite lines of responsibility, is provided for; its success depends upon whether or not the officials in responsible positions hold their subordinates to strict account. The line of responsibility runs in a direct and definite direction, from the least important employee to the division head, then through the commissioner, directly up to the governor, in all cases of policy, authority, and action.

The third bureau standard, co-ordination of the terms of office of the administrative officials, is likewise attained. Nevertheless, when all the employees of the government are removed from their positions following a change of administration, it is not unnatural to surmise that a great deal of time, efficiency, and money is wasted.

With respect to the fourth standard, the undesirability of independent administrative agencies, it should be restated that such are necessary evils in many cases. Rigid surveillance, at any rate, should be placed over them in the handling of funds, and reports of their transactions should be required immediately thereafter both by the treasurer and by the governor. It is frequently the experience in states that have adopted administrative reorganization plans that the legislature again falls into the practice of creating independent boards and commissions. The legislature of Tennessee has proved no exception. Most changes have been away from the original plan. A lone example must suffice. The division of game and fish has been taken from the department of agriculture and made into a separate department.[49] On the other hand, there is discernible some legislative adherence to the principles of the reorganization plan. When a division of tuberculosis control was established, it was placed in the department of health.[50] Then, too, there have been created several new examining boards, the inherent nature of each of which has prevented it from being placed in any department.

An attempt to evaluate the results of reorganizing the administrative machinery of any state is greatly hindered by numerous obstacles, some

[49] *Ibid.*, ch. 155.
[50] *Ibid., 1927*, ch. 22.

of which are insurmountable.[51] With respect to the reorganization in Tennessee some conclusions, however tentative, are in order. The administrative machinery of the state government of Tennessee has been greatly simplified and improved as to structure, coordination, functions, and responsibility. No doubt efficiency has increased. Any economy brought about by the change in organization which can be at all measured is lost sight of after the first year, because of increases in total expenditures with changing conditions.

[51]Complete or adequate financial statistics are frequently non-existent or non-accessible, or reorganization has changed the methods of reporting administrative expenditures and activities. For a particularization of such obstacles see J. H. Jacobson, "Evaluating State Administrative Structure," in *The Political Science Review,* XXII (1928), 929.

JOURNAL OF EVENTS (1825-1873) OF DAVID ANDERSON DEADERICK

Edited by Samuel C. Williams

Foreword by the Editor

In the C. M. McClung Historical Collection of the Lawson McGhee Library, Knoxville, Tennessee, there is, in typescript, an exact copy of a journal, kept by David A. Deaderick, which covers events and observations he thought worthy of being noted, beginning with the year 1825 and ending just before he died in 1873. The journalist was a man of culture and refinement. As a lad he visited cities of the East with his father; in 1819 he journeyed through Great Britain with an uncle; and he was a '49er to the gold fields of California.

As will appear from the journal, he was of one of the leading families of East Tennessee. The Deadericks were Whigs and David A. took an active part in the campaign of 1840. On the approach of the Civil War he and other members of the family inclined against secession, but when the state of Tennessee decided to stand with the seceding states, all of them drifted toward the cause of the Confederacy. The gradualness of this drift is interestingly shown by the journal. The volunteering of the younger men of the family for service in the southern army had no little to do with accelerating it.

The journal will prove invaluable to one who shall write, in anything like a definitive way, a history of Washington or of Knox county or of Jonesboro or of Knoxville. It contains so much of general value that the officers of The East Tennessee Historical Society have asked the writer to edit it for publication.

In fairness to the journalist it should be stated that he did not write for publication as is shown by the initial entry. Nor was the journal kept in an entirely orderly manner. The editor has, therefore, undertaken to rearrange some of the materials. Parts, of no general interest, have been omitted. The journal contains notes made by David A. Deaderick, who customarily appended his own initials (D.A.D.); and these initials have been left in order to distinguish his notes from those of the editor, which are indicated thus: (S. C. W.).

An effort was made by the journalist to keep the journal current, at times by interlineations in the text.

Deaderick was a man of wide information; he contributed data on East Tennessee for Eastin Morris' *Tennessee Gazetteer* of 1834. His public service was confined to an appointive office, that of clerk and master of the chancery court of Knox county, Tennessee.

THE JOURNAL

It is intended by the writer chiefly to give to *his posterity* a knowledge of matters which, although at present uninteresting, may by being transmitted from father to son attain an interest to which their worth intrinsically does not entitle them.

Commencing with the year 1825, at Jonesboro, Tennessee, D.A.D. aged twenty-eight years.

David Deaderick, our father, was a native of Winchester, Va., born the year 1754, Oct. 10; came to Tennessee before 1783; married our mother near Jonesboro.[1]

Margaretta Anderson,[2] our mother, born 25 May 1775, and died in Jonesboro Oct. 21st, 1857.

William Haney Deaderick, our half-brother by our father's first marriage with Miss Knight[3] of Winchester, Va., died Oct. 30, 1857, aged 72 years.

David Anderson Deaderick, now [1825] living with his mother at the farm, married in 1816, Adelaide Eliza Jackson, daughter of Sam'l Jackson;[4] she bore him a daughter Adelaide, and died on childbed Dec. 9, 1817. Married [next] Sarah Ann Helms, his cousin, Nov. 9, 1820.

[1]David Deaderick, a soldier of the Revolution and founder of the East Tennessee family, was preeminently a merchant; and some of his sons followed him in that vocation. Chief Justice James W. Deaderick was trained as a merchant in the Cheek's Cross Roads store mentioned in the journal, and did not turn to the law until he was reaching middle age. David Deaderick's only public service appears to have been as a member for one term of the Tennessee state Senate, 1799-1800. A miniature of him, painted by the celebrated artist, Charles W. Peale, is in the possession of a descendant (S.C.W.).

[2]Sister of Judge and United States Senator Joseph Anderson, for a biographical sketch of whom see Fay E. McMillan, "Joseph Anderson", in The East Tennessee Historical Society's *Publications*, No. 2 (1930), 81-93. The mother, Elizabeth Inslee Anderson, spent her last years in the home of this daughter at Jonesboro (S.C.W.).

[3]Nancy Knight, daughter of James Knight, a Revolutionary soldier from Frederick county, Virginia. The names of David Deaderick and Knight appear in the poll list of that county as having voted in 1758 for Col. George Washington as a representative in the house of burgesses. See *Virginia Magazine of History and Biography*, VI (1898-1899), 163 (S.C.W.).

[4]Maj. Samuel D. Jackson, father of Brig. Gen. Alfred E. Jackson, C.S.A., of Jonesboro. For sketch: Samuel Cole Williams (ed.), *Early Travels in the Tennessee Country, 1540-1800* (Johnson City, 1928), 452. He had a personal encounter with Andrew Jackson, not a kinsman, at Nashville. He acquired the first home of John Sevier, on the Nolachucky, south side, surrounded by a remarkably beautiful estate, which to this day is in the possession of his descendants (S.C.W.).

She bore him a son William (imbecile) Sept. 5, 1821; and died Dec. 27th, 1821. William died in 1835 or 1836.[5]

Amanda F. Deaderick married to Dr. David Nelson, and they reside in Kentucky. (Now in Missouri 1831. Now near Quincy, Illinois, 1856).

Eliza Rose Deaderick married her cousin, Alexander Anderson; lives in Jefferson County. (Now, 1843, in Knox County).

Joseph Anderson Deaderick unmarried. (Married his cousin, Emeline Anderson, Jan. 1831).

John Franklin Deaderick unmarried. (Married Rebecca Williams, daughter of Id. Williams, of Surrey county, North Carolina, in 1831.)

James William Deaderick. (At college at Knoxville, Dec. 26, 1829. Now at Danville, Ky., 1831. Married Adeline McDowell, granddaughter of Governor Isaac Shelby, of Danville, Ky.)

All born in Jonesboro at ["Poplar Hill,"] the old residence on the hill.

[A letter from Jacob Baker, of Winchester, Virginia, of date Nov. 30, 1858, to David A. Deaderick, gives information as to the uncles and aunts of the latter:]

"The only old person here of whom I could obtain any certain information in regard to your family is Mrs. Crockwile, the widow of John Crockwile and daughter of Nicholas Messmore (?), she is now 80 odd years of age and of very retentive memory and sound mind. She says your Grandfather had four sons and two daughters[6]—David Deaderick, John Deaderick, Michael Deaderick, and Thomas Deaderick; Polly Deaderick who removed to Staunton, and Betsy Deaderick who was married to John Murrell and removed to Lynchburg; and by her marriage to Sam'l May, had three children, Rosalind, Samuel, and Frank May. She said something about old Mr. May going to Knoxville. Some of the Knight family reside below Winchester and may be relation of the Miss Knight whom your father first married. The Bucher family[7] still reside in this county near Winchester. I am sorry the circumstance mentioned has so long deferred an answer and that it is not more complete as to the subjects of inquiry."

My grandfather spelt his name David Diedriech. I have learned this from his signature to his will, which I procured to be examined by the Clerk of the County Court, Winchester, Virginia, who gives me the Ger-

[5] D. A. Deaderick married a third time, to Elizabeth Jane Crozier, of Knoxville, Tennessee, July 21, 1831, and she bore him John Crozier, Margaret Frances, Robert von Albade, David, Ann, Alice, Inslee, Oakley, and Chalmers—9 (D.A.D.).

[6] For the genealogy of the Deaderick family, consult Zella Armstrong, *Notable Southern Families* (Chattanooga, 1918), I, 60-75, particularly for the brothers of David Deaderick, George Michael and Thomas, both of Nashville, and their lines (S.C.W.).

[7] My grandmother was [a] Bucher (D.A.D.).

man spelling as it was signed to his will and made into English as above. This will bears date 10 Nov. 1767. It was admitted to record 4 May 1768. In the body of the will, which was in English, the name is spelled *Dedirick;* so that I suppose it was so pronounced then; and my Father spelled, as we now do, Deaderick to conform to that pronunciation.

On my father's side I can go no farther back than my grandfather David Deaderick, who emigrated long before our Revolutionary War from Wurtemburg, Germany, to Pennsylvania, as is supposed first, and afterward to Winchester, Va., where he died in 1768, when my father, the oldest son, was about fifteen years old. My grandmother, German, also, but of American birth, I saw in Winchester about the year 1810, when I made my first travel with my father to the eastern cities. My grandmother's maiden name was Boher; and after my grandfather's death she married a Doctor May, an Englishman, from whom she had been divorced; and lived alone when I saw her. She was a member of the Lutheran church in Winchester, the Rev. Mr. Streit, pastor.

My grandfather had served three short campaigns in the Revolutionary War, the first as a private, when very young, in an expedition against the enemy in the region of Pittsburg, and subsequently, in 1777, in New Jersey; a part of the time as adjutant and paymaster to his regiment of Virginia militia, commanded by Colo. Calmees.

My father had small advantages of education in English, having been much better educated in German. The conversation of my grandmother and my father at the time of our visit above mentioned was altogether in the German language.

The business of my father, after he came to Tennessee, was that of a merchant, having brought the first goods that came to Jonesboro, where he lived and died.

He was noted for his probity and integrity of character; and had a wide and enviable reputation as an honest merchant, a public spirited citizen and a just man.

I might here say that my maternal grandmother [Elizabeth Inslee] who in the closing part of her life lived with my mother, her youngest daughter, and died at my father's house on the hill in Jonesboro, had five sons in the army of the Revolution. Enoch, the oldest, commanded a company a portion of the time and was wounded at the battle of Long Island. Joseph was also a captain, brevetted a major at the close of the war, in which he had served during its continuance. William served as a lieutenant during the latter part of the contest having been too young to enter the army at its commencement. Inslee commanded a company at St. Clair's defeat, where he was killed by a shot from the enemy while the surgeon was dressing a wound he had received in the head. Thomas was also in the Revolutionary War, a lieutenant in Capt. Kirkwood's

company and served under Gen. Greene in N. C., S. C. and Georgia. He was in most of the principal battles there. I have copy of a journal kept by him at the time.

My grandmother, I remember, took a deep interest in passing political events, agreeing with my father in politics, reading with interest the *National Intelligencer,* which was a leading National Republican paper, advocating the war of 1812 and the leading measures of the acting administration (Madison's).

. . I copy from a *copy* in possession of Gen'l Alexander Anderson the following, in reference to my mother's family:

Joachem (our first American ancestor) emigrated from the town and Lordship of Albade in the Dutchy or Dukedom of Deux Ponts, or, as the Germans write it, Zweybruchen, and came to London, Great Britain, where he married. From thence he came to the city of New York and lived in the house next to, and on the east side of, Federal Hall in Wall Street. This gentleman derived his surname, according to the custom of the Germans, from the place of his nativity, of which his ancestors were Lords, as his surname Von Albade implies.

New York, being at this time inhabited by the Hollanders and their descendants chiefly, and their language and customs being prevalent, Joachem, in conformity to their customs, inserted the Christian name of his father Andries, or rather as the Germans write it Andreas, with the addition of zon or son between the Christian and surname—thus, Joachem Andrieszon Von Albade.

His posterity to anglicise and contract the name omitted our family surname Von Albade, and wrote Andriezon.

Joachem (or as the record of the Low Dutch Church in the city of New York has it, by contraction Jochem) had six sons, to wit—Elias, Joshua, Cornelius, Andrew, Benjamin and Enoch.

The sons of Elias, excepting Abraham, remained in New York. The sons of Elias were *1st* Joachem, who left no son. *2nd* Andrew,[8] whose sons were Elias, John and Abraham. *3rd* Peter, whose sons were George, Elias, Elbert and Peter, who died without sons. The sons of George were James and George; *4th* Abraham, whose sons were Elias, Matthew and Abraham.

. . The sons of *Enoch* (the son of the first Joachem) were *Enoch* (the younger) and others. The sons of *Enoch* were *William* (our grandfather), Alexander, and Thomas, and daughters, Elizabeth, Sarah (Mrs. Loughboro), Nancy (Mrs. Jones), and ———— (Mrs. Grant).

[8]This Andrew went with his mother to England and thence to Scotland to possess an estate which fell to his mother. His mother returned to New York. He remained in Scotland (D.A.D.).

The sons of *William* were Enoch (5 sons and 3 daughters), Joseph (7 sons), Inslee[9] (2 sons), William (1 son 2 daughters), Thomas (2 sons 1 daughter), and James (4 sons 2 daughters), and daughters Sarah, Mrs. Helms (2 sons 3 daughters), Mary, Mrs. Ogden (5 daughters 1 son), Elizabeth, Mrs. Aiken (1 daughter 1 son), and *Margaretta* (4 sons 2 daughters). The last of these, Margaretta, is the mother of the D. A. Deaderick (her oldest child) who records this.

A. D. 1825

In September 17th day last year an unusual freshet occurred in Nolichucky river, the water rising about ten feet higher than was ever known to any of the inhabitants before; carrying off saw and grist mills, several dwelling houses, immense quantities of rails, trees, and other drift; destroying, too, cows to considerable amount. Although it occurred in the night, but a single life was lost in this county; nor do we hear of any other person being drowned in any of the counties through which the river passes.

Last year was also remarkable on account of accessions made to the churches in this and neighboring counties. Our town from having been remarkable for its irreligion is now as distinguished for the number of adherents to the visible church. The state of society is much bettered from this and other causes, connected with the diffusion of education, and the gradual emancipation from the barbarous and uncivilized habits that mark the settlers of new countries. Within my recollection, not more than 12 or 14 years since, at every general meeting of the people, at musters, elections etc., nothing was more common than the occurrence of 6, 8, or 10 fights in the course of the day, and in the backwoods manner of gouging, biting, etc. Often have I witnessed these savage combats when the persons engaged, stripped of their shirts, were allowed without the interference of a peace officer or anyone else, to fight until one or the other submitted. Now such an occurrence is rare, and if it should take place, the disturbers of the peace are promptly taken care of by the proper officer; at least, in most cases. Drunkenness at public meetings has become much less common than at the period referred to. Yet this evil is at *present,* perhaps the most common, and most to be depricated of any equal enormity amongst us.

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[9]Inslee was the maiden name of my maternal grandmother, wife of William, the second Enoch's son—Elizabeth Inslee (D.A.D.).

On the 27th of November last David Greer[10] killed Holland Higgins. Higgins was at the time in custody of Wm. E. Erwin, constable in the Greasy Cove.[11] On the 26th Greer had shot at Higgins and missed him. On the following day, Greer getting ahead waited in a waste house, on Indian creek, directly on the road, three or four miles from the mouth of the creek, from which he shot and killed Higgins on the spot. Erwin succeeded, after a hazardous encounter, in securing Greer. This he would not in all probability have effected, had not he directed Cooper, a young man who was with him, to shoot Greer, which he did and wounded him in the hand. Greer is a man above the ordinary size and of great strength. He has lived for 20 or 30 years past near the top of the Bald Mountain (the pinnacle of which he had ditched for the purpose of cultivation) entirely alone. He is thought to be somewhat deranged.

Prices of country produce this year:

Wheat	75c to 83 1/3c
Corn	bus. 33 1/3
Rye	50c
Oats	20c to 25c
Buckwheat	62½
Beef	4c; best 5c lb.
Pork	3½c lb.
Cider, best	17c gallon

Money is this year exceedingly scarce, principally in consequence of the banks, on resuming specie payments, being under the necessity of retaining their notes, issuing no paper, and calling on their debtors to pay gradually a part of what they owe. The present difference between Tennessee money, and that at par in Baltimore, is 15%. North Carolina and Georgia bank notes sell at a premium of 10% for our notes. Some

[10]Greer's Bald, one of the peaks of Bald Mountains, local name for a part of the Great Smoky or Alleghany range, east boundary of Tennessee and south boundary of Washington county prior to 1875, was named for David Greer, the hermit, who was originally from South Carolina. He removed to western North Carolina in 1798 and entered the employ of Col. David Vance, with whose daughter he fell in love. His suit not being encouraged, he went to the Bald Mountain in 1802 and built a rude cabin in one of the coves of Greer's Bald and cleared a tract of nine acres, twenty miles from any other habitation. His quarrel with Holland Higgins was over what he conceived to be an encroachment on his land. After killing Higgins, he was cleared on trial on a plea of insanity, but met death later at the hands of a friend of Higgins. He published a pamphlet in justification of his killing Higgins and sold copies on the streets of Jonesboro. He left an account of his life and views of life, which along with the above pamphlet has disappeared (papers of Silas McDowell). Greer's Bald was visited by D. H. Strother (Porte Crayon) in 1856, and his description may be found in *Harper's Magazine,* XIV (1856-1857), 433, 711, and XV, 154, 209. Bishop E. E. Hoss often scaled Greer's Bald and his description of the view from that point in the *Christian Advocate* of Nashville is the best to be found. It deserves to be reprinted in some permanent form (S.C.W.).

[11]Now in Unicoi county, but then in Washington (S.C.W.).

have been bought for 8%. In April the advance for par money is 5% to 6%.

1826

July 8th.—During the last winter I made a visit to the western part of this state, and to North Alabama, with a view of removing our mercantile establishment from Jonesboro. We have located it in Somerville, Fayette Co., Te., nearly 500 miles west of this place. The appearance and prospects of that country, indeed of all West Tene., compared with ours seems vastly more flattering to those disposed to accumulate the *good things* of this world. Yet the more of moral feeling, less devotion to money making, and less absorption in the business of the world, are, I think, discernible more in East than in West Tene. I extract, from notes taken during my journey, some observations I had made on the country.

The buildings in the country in West Tennessee, generally, are constructed with less regard to comfort than they are [in] Washington county. Even on the good lands, and until you reach the neighborhood of Nashville, very few dwellings are seen, such as from the productiveness of the soil and consequent ability of the farmers, one would expect to find.

Indeed the thoughts of the farmers, or planters, as cotton growers are called, appear to have been directed almost wholly toward other objects, and chiefly to that of making good crops of cotton and tobacco! The latter is however produced to much less extent than the former. The idea of making money by these crops is too seductive to allow the planter to give his attention and money to an object so *unimportant* as that of having comfort and convenience in his house and homestead, adopting, as almost every one appears to do, the idea that to get money wherewith to buy more land and negroes, and thus to accumulate more money, is to be happy, although most of the comforts it can purchase, are in the meantime dispensed with.

Nashville is flourishing and is the seat of *talent and fashion.*

Near Franklin, with the aid of my friend, Wm. McAlister,[12] I made a survey of a remarkable fortification, similar in character to those found so frequently in the western country. A ditch which must originally have been very wide and deep encircles ten mounds of different sizes. The ditch encloses about 40 acres, having the river Harpeth on its termin-

[12]The McAlister family lived in Washington county, lower part, and from it derived Judge W. K. McAlister, of the Tennessee supreme court, and Gov. Hill McAlister. For the family in Frederick county, Va., see F. Morton, *The Story of Winchester* (Strasburg, Va., 1925), 116 (S.C.W.).

ating points. A smaller ditch angular in its form, the angles all pointing out, encloses the large mounds and two small ones.

These fortifications and mounds, the use of many of which can only be conjectured, are objects of great interest. Bones have been found contained in some of the mounds, and articles of pottery, etc. It lies about three miles S. E. of Franklin, Williamson county, Tennessee. Some of the largest trees in the woods, for it is yet uncleared, stand on the mounds and in the ditches.

In August of this year (1826) in company with Dr. [David] Nelson I again travelled to the Western District of Te.[13] My cousin Wm. T. Anderson, who had charge of our store in Fayette Co., having died the preceeding July. The Doctor bought 600 or 700 acres of land near Somerville, about one mile west. Part cost him $5 and part $2.50 per acre. The usual price of land in that part of the district is about $3.50 to $5.

This year in November the Nashville Bank stopped specie payments and money is rendered, in consequence, much scarcer, as the most of our circulating medium is in bills of that Bank. They now are from 30 to 50% below par.

Some of our relations, Dr. Nelson particularly, who is the husband of my oldest sister, Frances, talks strongly of removing from Jonesboro to the Western District to the land he recently bought near Somerville, Fayette county, and several families speak certainly of going with him.

Many ancient mounds are found in the Western District of Tennessee. The largest of which I have any knowledge or perhaps the largest in any part of the West is situated on the South Fork of Forked Deer river above Jackson in Madison county called Mt. Pinson.[14] The largest mound is 72 feet high surrounded by many smaller ones.

The appearance of the Western District is in the summer season very beautiful. Almost the whole country is covered with luxuriant grass, on which the cattle of the country subsist without other food. No undergrowth except the grass is seen in many parts, which gives the appearance of rich and beautiful meadows. This grass soon disappears when the country is much tramped and grazed; about Bolivar it has already been eaten out.

This district has a soil very congenial to cotton, but contains so much sand that I fear the soil will soon be exhausted under the management which is common to the country. Corn and cotton usually succeed each

[13]That part of the country lying between the Tennessee and Mississippi rivers in this state (D.A.D.).

[14]For description and illustration of these remarkable remains, see S. C. Williams, *Beginnings of West Tennessee* (Johnson City, 1930), 1-9 (S.C.W.).

other, and I doubt whether any crop will be in general use which will be ameliorating and enriching to the soil.

The country has been so recently acquired from the Indians and has been so short a time (five years at farthest) in cultivation that no fixed system of cropping has been adopted, but the presumption is that it will, like Alabama, be a cotton country, and subjected to the management above [mentioned, which is] used in such countries. Hence my prediction that East Tennessee, particularly this part of it, will be in twenty years a much more desirable part of the state, for we cultivate the grain and grass crops which always contribute greatly to the comfort and plenty of a country. Our soil is poor in comparison with what is now called Middle Tennessee or in comparison with the Western District, and we have it not within our reach, as a people, to become rich as they can in the west. Yet I believe this is one leading reason why our country will be more desirable as a place of residence than any part of the west, for where there are temptations and opportunity to get wealth men are less apt to be virtuous and happy; and, where property is most equally distributed, there is most contentment and peace of mind. This I believe is exemplified at the present moment in the condition of West and East Tennessee. Most impartial persons will observe that we are more moral and religious and less absorbed in the business and cares of the world than the people of West Tennessee, or of any cotton country. It is not the ability to get rich alone that makes the difference I believe to exist, but where cotton is grown extensively slaves are found in great numbers and where all the work, or nearly all, is performed by slaves, a consequent inaction and idleness are characteristics of the whites, and any one knows that there is no surer way of vitiating a man, than to leave him with nothing to do.

We have comparatively few slaves; and, as far as evil is produced to a country by their presence, we have in that respect an advantage over West Tennessee. I give some further extracts from the Journal before alluded to.

Bolivar (in Hardeman Co.) is situated one mile distant from the Hatche river, so high and furnished with water so good, that health, which so far has seemed to be uncertain to the inhabitants of the country in most parts of it, would seem to be insured to this town. The river will be navigable 20 or 30 miles above the town when the logs which at low water now obstruct the passage of boats are removed. This place in time will attain considerable importance I should think, for, at no very distant day, if the spirit of improvement in reference to canals which is now operating so advantageously in the Eastern states of our Union, should continue to be a favorite subject with the nation as it now seems to be, a canal will be constructed connecting the Hatche and Tennessee riv-

ers, and thus Bolivar will be situated on the great thoroughfare from East Tennessee and upper Alabama to New Orleans.

There are no other houses in Bolivar than cabins, except one frame and one small brick house. The lots sold about two years since for the average price of $250., which is considered high. Those of the town of Somerville, Fayette Co., sold for about $100 each for the choice on the square. Jackson, in Madison Co., and Paris, in Henry Co., are now the most flourishing towns in the district. Jackson may contain 600 or 700 inhabitants. Its court house is the best in the state. Jackson is situated too low, and too near to the river Forked Deer to be healthy, at least until the swamps which on the opposite side extend a mile or more in width, should be cleared of trees and made dry.

Religion in East Tennessee is attracting the attention of the inhabitants more now than at any former period; indeed, the subject in all parts of the world seems to be taking a hold, which is indicative of a great change in the moral condition of the people.

1827

The subject of farming is becoming one which receives more attention; and, as it always should, in our part of the country and indeed in every other, is gaining respectability as an occupation.

The farmers are decidedly improving on their former practices. Clover is used much more extensively, manuring is seen more in its important and proper light. And some, though very few, are beginning to experiment with lime as a manure. Our lands are now so much worn that unless a change in the mode of culture should be adopted the country must be deserted or the lands *turned out* and more cleared, where the farmer has enough to enable him to adopt this sapient course.

A considerable spur has, I think, been given to agricultural improvement by the introduction of good ploughs. In 1825 a company was formed in Jonesboro consisting of Henry Marsh, Sam'l Crawford, Thos. Emerson[15] and myself, and engaged Ezra Pierce to go to Georgetown, District of Columbia, to procure the patterns, [and] learn to make Gideon Davis' patent plough. We now have the plough, with which the farmers are much pleased, never having before seen in our country a plough that can at all compare with it for excellence of performance and ease of draft. If our farmers will only use it judiciously in ploughing under clover, buckwheat and other green crops, a great change will be

[15]Thomas Emmerson was the first mayor of Knoxville and served as judge of the Tennessee supreme court. He removed to Jonesboro, where in 1834 he established and edited the *Tennessee Farmer*. In 1836 that periodical was owned by Emmerson & Deaderick and edited by J. Franklin Deaderick, brother of David A. (S.C.W.).

effected in the aspect of our country in a few years. Our farming is generally done wretchedly. No system of rotation of crops has been used, very little manure applied, and ploughing very generally badly done. The common course of crops has been corn, small grain, and then lie [out] for pasture, as it is termed.

The Davis plough had a cast iron mould board, and cast point, but wrought iron points, steeled, were generally substituted. A cast iron movable *heel, chilled,* was fixed behind with screw bolts. The castings were made at Embree's Furnace in Bumpass Cove some two miles above Embree's old rolling mill and nailery on Chucky River above Sluice Hill, and were the first mould boards cast in East Tennessee. Ezra Pierce put the plows together at his own residence, some eight miles N. West of Jonesboro. He and I were much interested about the plow, and were frequently together both at the furnace at Jonesboro, and at his house. I was the agent to sell the plow and sent to different places in E. Tennessee. I recollect sending some to Knoxville consigned to Robt. King, a commission merchant there. They sold slowly at first, but finally were very much used, especially in upper E. Tenn. The plow was a most excellent one.

In April of this year I visited the Western District the third time and sold out our store there.

1828

In October of this year my mother (with whom I reside since the death of my father in Oct. 1823, and indeed previously to his death and since the death of my last wife Sarah Ann, in December, 1821, I have resided with the family) removed to the farm where we now live, three and one-half miles east of Jonesboro where we had built a one-story brick house, a considerable oddity in this country, on account of the construction of such houses being uncommon.[16] The farm is much worn, as is almost universal with farms which have been long cultivated in this country, yet I think the day not far distant, when this part of Tennessee, now considered poor and undesirable, will be the most desirable part of the state. Indeed there is no part of the United States where the climate is more pleasant than in this hilly and mountainous region, affording a medium between the extremes of heat and cold. Our summers are never oppressively hot nor are our winters ever very cold. No country is more healthy. We are blessed with springs of pure water, and a soil, which originally was good with some exceptions.

[16]Twelve years later, in 1840, John Silk Buckingham, the British traveler, passed through Jonesboro and noted the rapid advance in popularity of brick for construction: ". . . more brick houses than wooded ones, which is unusual in the country" (*The Slave States of America* [London, 1842], II, 246 (S.C.W.).

Our country, however, will never so much flourish as when we become a manufacturing people. We have water power without end to propel machinery, and in iron manufactures especially, this county and the adjoining one of Carter, will in time become celebrated. We have now in this county (Washington) and Carter, many bloomeries for iron and two or three furnaces. In the adjoining county of Sullivan there is now and has been for some years a nail[17] manufactory, which has had a salutary effect on the counties near it, in creating a market for many of the products of the country and in supplying an article of first necessity, which until the erection of the factory was obtained by land conveyance from Baltimore and Richmond. Quantities of nails are also furnished for the markets down the rivers, as far as Huntsville, and even Florence, Alabama. All heavy articles or iron manufacture will be made in this country, I should think, before many years. The capital is needed at present to establish factories.

In the winter of this year (Jan'y or Feb'y) my brother-in-law Doctor David Nelson[18] removed to Danville, Ky., and took charge of a congregation there, for he is both physician and divine of the Presbyterian order; where he has been instrumental, I doubt not, of doing much good in the name of his Master, Christ Jesus; he is greatly devoted to the work of the ministry, and has abandoned the practice of physic entirely, though much esteemed as a physician.

1829

There is a great disposition in many of our citizens to remove to the fertile countries west and north of us. The rage now seems for Indiana, Illinois and Missouri, some to the Western District of this state. I was again, the fourth time, in the Western District on business connected with our mercantile establishment. Doctor Nelson has bought land in Missouri, 130 miles north of St. Louis and intends to remove to it in the fall of 1830. Others of our friends speak strongly of going to the same state. I am undecided whether our interest would be promoted or not by a removal. The enterprise, prospect of wealth, and comparative ease of

[17]Removed subsequently to Embree's on Nolichucky River, eight miles from Jonesboro (D.A.D.).

[18]Sketches of Nelson are to be found in the *Dictionary of American Biography*, and by his friend and neighbor in Washington county, Rev. Dr. James Gallaher, in *Western Sketch Book* (Boston, 1850), 369-393. Nelson was born and reared on the old Isaac Broyles farm, near Washington College, at which institution he was educated under Doak. At the age of twenty-two he eloped with the charming daughter of David Deaderick, whose influence upon the wild young physician turned him from infidelity to the church and the ministry. In 1836 he wrote his celebrated and widely and long circulated *Cause and Cure of Infidelity*. In 1827-29 he was one of the editors of the *Calvinistic Magazine*, of Rogersville. He and Bishop E. E. Hoss are the two greatest preachers native to Washington county (S.C.W.).

living in those countries, seem inviting to us of poor East Tennessee, where we are barely living, without a prospect speedily of growing rich. Yet to one who can content himself with a little, and *depend on prosperity far ahead,* East Tennessee is a pleasant country. I doubt whether any one comfortably situated here is justifiable in removing to any other country, if contentment be their wish. But if to get wealthy, which is by no means synonymous with happiness, be the sole object a removal might be advisable; but even in the non-slave holding states northwest of us, the prospect, although the land generally is vastly more fertile than ours, of becoming wealthy in a short time, is by no means certain for the products of the soil are very cheap and farmers cannot realize money rapidly. Yet to those who will secure rich land and wait for its increase in value, the prospect of independence is almost certain. Many of the wealthy men in Kentucky have become so, by their land, bought when it was cheap, having increased vastly in value. The effect will be the same in the states north and west of here, and I should think in a greater ratio, as the latter are non-slave holding states; and I doubt not that all property, in years after this, will be more valuable in the free states than in those where there are slaves. The great evil of this species of population is beginning already to be deeply felt, and I anticipate that with each succeeding year, the growth of it will be progressively increasing in its injurious effects, on those states where it exists.

1830

I have omitted to state some interesting particulars in reference to the farm my mother and myself now occupy, which may not be out of place here. It is one of the first settled farms in the state.

John McMahon,[19] of N. Carolina, located the land and occupied it in the fall of 1774. The nearest neighbor then was Jos. Young, five miles east of Jonesboro, on the road leading to Elizabethton, Carter Co. There was but a single cabin[20] inhabited by whites west of this place, and that was on Chucky river in this county. The family were twice driven off by the Cherokee Indians. The nearest place of security, and that to

[19]John McMahon, or McMahan, married Isabella Barnes in Ireland and emigrated to America. After living in Pennsylvania and the Valley of Virginia he settled in what is now Washington county at the head of Knob Creek. He owned a large body of land adjoining Robert and Joseph Young, who lived nearer the present Johnson City. McMahon was one of the first justices and the first register of Washington county. It is believed that our journalist was in error in stating that he came to the region from North Carolina, but it may be that he went from Virginia into North Carolina and lived there for a time before moving west (S.C.W.).

[20]This statement is too strong. There was in 1774 but a single settlement west of the McMahon home, but in that settlement were a number of cabin homes. The neighborhood was known as the Jacob Brown Settlement, on Nolachucky River, Washington county, and dated from 1771 (S.C.W.).

which they retreated, was Abingdon, Virginia. On one of these occasions, the Indians put their horses in the garden, which was located on part of the ground we now have enclosed for a garden, at the west end of the brick house, which destroyed everything that grew in it. They also destroyed the crops almost entirely, rifled the spring house, and did other damage to the property. They roasted a hog back of the kitchen (then the dwelling) in the little flat near our present smoke house. The part of the log house nearest our present dwelling (now used as the kitchen) is said to be the oldest house having a stone chimney and shingled roof in the state. *Cabins* there were in the the state older than it; yet, it is believed, no *house* as good as it, was built before it in Tennessee. There was [no] house built where Jonesboro now stands, when McMahon first settled this farm.

This must, in very early times, have been a place much resorted to by the Indians. I have found the past summer, without especially looking for them, 50 or 60 arrow heads, in the flat part of the field, on the left of the road to Abingdon, as it now runs, on the side of the branch next the house. I found also, recently, an axe of stone, on the side of the road nearest the garden, between the house and barn. In the spring of the year, in digging to set out a white mulberry tree near the N. East corner of the front yard, I found a pestle of stone, such perhaps as were used by the Indians to pound their corn, nine or ten inches below the surface. I also found elsewhere, near the house, a part of the handle of one of these same pestles.

Early in May of this year, I made a journey to Missouri, in company with my brother-in-law and cousin, Gen'l A. Anderson, his brother, Geo. W. Anderson, Colo. W. B. A. Ramsey, and John H. Crozier, the two last of Knoxville.

The General's object and mine was to see the country with a view of moving to it. We went by way of Lexington and Georgetown, Ky., to Cincinnati, Ohio, thence by Madison and Salem, Indiana, to Vincennes on the Wabash, thence direct to St. Louis, Missouri, and thence, crossing at St. Charles the Missouri river, to Palmyra about 130 miles N. of St. Louis. In this neighborhood Doctor Nelson, my brother-in-law, had bought land, and since our return from Missouri, has removed to it. We visited the spot where he intended residing; one cabin for a smoke house was then up, and no other preparation for his reception. He was expected in two or three months. There was, at the time of our visit in June, but one cabin, if even that, west of him. We were on a large prairie twelve or fourteen miles west of the Doctor's location, on which we were told by Doctor Clarke, a domestic animal had never grazed, and on which a single location had not been made. This I mention to shew how far in [to] the *Far West* the Doctor's fancy had led him. I en-

deavored to dissuade him from removing to his land for a year or two until more settlers come in, but he would not listen to me. If he will become a sportsman an ample supply of game is at his door, consisting of prairie fowl (a sort of grouse), turkeys, deer, prairie wolves and even elk are not twenty miles west of him.

That is a country of rich land, chiefly prairie, and of most romantic beauty. I need not attempt a description of an extended prairie for I should utterly fail in giving anything like an adequate idea of its beauties.

I saw on Doctor Clarke's farm, two or three miles E. of Dr. Nelson, the first attempt perhaps in Missouri at a sod fence. The Doctor had more than a mile of this description of fence. It is resorted to on account of the scarcity of timber, which is indeed one of the strongest objections to Missouri, or at least the part of it I allude to. This objection is valid against all the prairie country of the N. W. region of our territory. The sod fence is made by plowing up a wide furrow of the prairie grass, and building a wall as you would of bricks two or two and one-half feet thick and five feet high, with pieces of the sod cut in suitable lengths with the spade. The fence I saw was but recently made. Time must determine if it will answer the purpose intended. It is not expected to endure the washing of rains and freezings in a cold climate, more than seven or eight years. I doubt if it will endure so long. On a visit to Knoxville, where I attended an examination of the female school, in September of this year, I saw Miss Elizabeth Jane Crozier, sister of John, who made one of our party to Missouri, and of whom Colo. Ramsey, during that expedition, had often spoken to me in the highest terms. I had formed the design on that journey, to see her, with a view of making *myself agreeable to her.*

1831

Early in the year a cotton spinning factory, on a small scale (84 spindles), was put into operation in Washington county by Charles Cox on the waters of Boone Creek, nine or ten miles N. E. of Jonesboro, being the first factory of the kind erected in this part of E. Tene. Similar factories had been in operation previously in Knoxville but none before east of that place.

I was married 20th July of this year to Miss E. J. Crozier, mentioned above, daughter of Capt. Jno. Crozier, postmaster and merchant of Knoxville. She combines, as I think, every quality to make an unexceptionable and estimable wife. After our marriage we resided till June, 1834, in the house where myself and mother had previously lived. On the stream, Knob Creek, which runs by the house, my brother Franklin and myself had erected a small cotton spinning factory which was in

operation while I remained in Washington county, and afterward changed by my brother to a grist mill.

In the autumn of 1834 we removed to Knoxville and I became a partner in the mercantile establishment of my father-in-law, Capt. Jno. Crozier, in conjunction with his son Carrick W. Crozier under the firm [name] of Crozier, Deaderick & Crozier. Afterward C. W. C. retired and A. R. Crozier took his place; and subsequently to this, in 1835, A. R. Crozier retired and the firm was then Crozier & Deaderick. Capt. Crozier being postmaster, I had the entire charge of the postoffice, as Capt. C. did not attend to business and [so] continued until his death, 12 Septr. 1838. We had lived in Knoxville heretofore, but about the time of the death of Capt. and Mrs. Crozier, who died 11th October 1838, we removed to their late residence, Fruit Hill, near town.

In February, 1839, I was appointed cashier of the So. West. R. Road Branch Bank at Knoxville, and removed to town; but again in 1840 returned to Fruit Hill.

During the few last years *Temperance* has made prodigious progress in all parts of the United States and here its good effects have also been sensibly felt. Our neglected society has been revived and many have taken the pledge of total abstinence from all intoxicating drinks. During the year 1842 religious revivals have been more than usually prevalent and in Knoxville the churches have been revived and are in a good state.

The silk culture for some few years past has attracted much attention in E. Tennessee and other parts of the U. States.[21] Rev. F. A. Ross, Kingsport, Sullivan Co., E. Tene., has raised more raw silk for sale than perhaps any other individual in the U. States.

Mr. Ross is a partner, also, in one of the most extensive cotton spinning factories in E. Tene., of which there are now several.

Weaving at the Rotherwood factory, Kingsport, by Rogan, Thomas & Co., is now done by water power and I believe nowhere else in E. Tene.*

[21]D. A. Deaderick later engaged in the raising of silkworms. In the Diary of Col. Drury P. Armstrong, covering the years 1842-1849, in the C. M. McClung Historical Collection of the Lawson McGhee Library, Knoxville, Tennessee, it is recited: "Observed the introduction of the silkworm into Tennessee, and visited the cocooneries of David A. Deaderick and David Campbell and invested in 10,000 worms and a joint ownership with A. R. Crozier and Mr. Deaderick of a $75.00 silk machine" (S.C.W.).

*The second, and concluding, installment of the Deaderick journal will appear in Number Nine of The East Tennessee Historical Society's *Publications*.

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TRANSYLVANIA. Lester, W. S. The Transylvania colony. Spencer, Ind., S. R. Guard & co., 1935. xv, 288 p.

[Walker, Paul E.] Illustrated history of Reelfoot Lake. [Ridgely, Tenn., Author, c1929] 15 unnumbered p.

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WASHINGTON COLLEGE. Carr, H. E. Washington college; a study of an attempt to provide higher education in Eastern Tennessee. Knoxville, Tenn., S. B. Newman & co. [1935] vii, 282 p. illus., facsim.

WEBB. Parks, E. W. Sawney Webb: Tennessee's schoolmaster. (N. C. hist. rev. Jl '35. v. 12: 233-251) [William Robert Webb]

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Wheeler, Lester R. A study of the remote mountain people of the Tennessee Valley. (Tenn. acad. sci. Jour. Ja '35. v. 10: 33-36)

White, Robert Hiram. Elizabeth Hutchinson Jackson, the mother of President Andrew Jackson. (Tenn. hist. mag. ser. 2, v. 3: 179-184)

Whitley, Mrs. Edythe Johns (Rucker). Hale family. Nashville, Tenn. Mimeographed, 1934. 45 p.

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WILDER. Williams, S. C. General John T. Wilder. (Ind. mag. of hist. 1935. v. 31: 169-203. ports.)

Williams, Samuel Cole. General John T. Wilder. (Ind. mag. of hist. 1935. v. 31: 169-203. ports.)

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Wilson, Louis R. County library service in the south. A study of the Rosenwald county library demonstration. Chicago, Univ. of Chicago press, [1935] 259 p. illus., maps, charts, tabs. [Includes Hamilton, Knox and Shelby counties]

Wilson, Samuel Tyndale. Chronicles of Maryville college; a story of altruism. Maryville, Tenn., Pub. by the Directors of Maryville College, 1935. xvi, 334 p. front., ports., plates.

Windrow, J. E. Collins D. Elliott and the Nashville female academy. (Tenn. hist. mag. Ja '35. ser. 2, v. 3: 74-106. port., pl.)

Wooten, John Morgan. Red Clay in history. Cleveland, Tenn., [1935] 11 p.

Wright, Marcus Joseph. Diary of Brigadier-General Marcus Joseph Wright, C.S.A., from April 23, 1861, to February 26, 1863. (Wm. & M. coll. qr. Ja '35. v. 15: 89-95)

YOUNG. In Memoriam. Judge Samuel M. Young. (Tenn. hist. mag. ser. 2, v. 3: 189)

UNPUBLISHED MASTER'S THESES, 1935

University of Tennessee

Alexander, Helen Roth. Congress and Muscle Shoals.
Boren, Mrs. Gertrude S. The first state board of health in Tennessee.
Kent, Anne Poindexter. The Ku Klux Klan in Tennessee.

Vanderbilt University

Clarkson, Charles S. A historical interpretation of the Journal of Francis Asbury.
Hahn, Phyllis E. The German settlers in Nashville, Tennessee.
Redford, Maury E. History of the Church of the Nazarene in the South.
Stevens, Eva. History of the theatre in Nashville, Tennessee, 1871-1875.
Thompson, E. Bruce. Humanitarian reforms in Tennessee, 1820-1850.

UNPUBLISHED DOCTORAL DISSERTATIONS, 1935

Partin, Robert Love. The secession movement in Tennessee. (Peabody college for teachers)

Silver, James W. Edmund Pendleton Gaines—Exponent of the frontier. (Vanderbilt university)

BOOK NOTICES

This number of The East Tennessee Historical Society's *Publications* inaugurates a new section, "Book Notices." Books to be noticed will be those bearing directly or indirectly upon some phase or phases of the history of Tennessee. There is no intention of reviewing books critically; the purpose of the *Publications* will be served in supplying bibliographical data and in indicating something of the nature of the subject matter.

Tennessee a History 1673-1932. Edited by Philip M. Hamer. (New York: The American Historical Society, Inc., 1933. Vol. I, 535 pp.; Vol. II, 562 pp; Vol. III, 378 pp.; Vol. IV, 461 pp.)

"This history has been written in the hope that it will be some contribution to the history of [Tennessee] . . . it has been necessary to write this history largely on the basis of an examination of source materials. . . . All of the chapters except those that are indicated as of other authorship have been written by me" (preface).

The chapters are entitled: I The Land and Its First Inhabitants; II The Coming of the White Man; III Anglo-French Rivalry; IV The Building of Fort Loudoun; V The Cherokee War, 1758-61; VI Watauga; VII The Revolution: War With the Cherokee; VIII The Revolution: King's Mountain and After; IX The Cumberland Settlement; X The State of Franklin; XI The Spanish Intrigue; XII The Southwest Territory; XIII The Attainment of Statehood; XIV The Frontier State; XV Politics and Personalities, 1796-1809; XVI War With the British and the Indians; XVII McMinn, Carroll, and the Panic; XVIII Indian Removal and the Public Lands; XIX Andrew Jackson Dominates the State; XX The Rise of the Whig Party; XXI Party Politics, 1839-1847; XXII Democratic and Humanitarian Reforms; XXIII The Early Temperance Movement; XXIV Ante-Bellum Education; XXV Early Transportation by Land and Water; XXVI The Early Railroad Movement; XXVII State Aid and the Middle Tennessee Railroads; XXVIII Railroad Building in West and East Tennessee; XXIX Slavery and Anti-Slavery; XXX Slavery and the Union in Politics, 1847-51; XXXI The Whigs Become Know-Nothings, 1852-55; XXXII Parties and Slavery, 1856-60; XXXIII The Union or the Confederacy; XXXIV A Confederate State; XXXV The Revolt of the East Tennesseans; XXXVI Civil War and Military Rule; XXXVII The Restoration of Civil Government; XXXVIII The Radical Regime; XXXIX The Enfranchisement of the Negro; XL The Ku Klux Klan; XLI The Triumph of the Ex-Confederates; XLII The Radicals and the Railroads; XLIII Politics and the State Debt, 1870-83; XLIV The Farmer in Politics; XLV Twentieth Century Politics; XLVI The Woman's Movement;

XLVII State Institutions; XLVIII The Four Chief Cities; XLIX The Press; L The Churches; LI Agriculture; LII Manufacturing; LIII Forests and Minerals; LIV The World War; LV Medical Annals.

The first two volumes are historical, the second two biographical. Of the historical chapters most were written by the editor. There are numerous illustrations, three appendices, eleven pages of "Bibliographical Notes," and separate indexes of the historical and biographical divisions of the work.

Salt As a Factor in the Confederacy. By Ella Lonn. (New York: Walter Neale, 1933. 324 pp.)

The arrangement is largely topical. Of all the Confederate states Tennessee is probably given briefest treatment. The references, however brief, are interesting. Governor Shorter of Alabama, in 1862-63, negotiated for his state contracts with the Knoxville firm of McClung and Jaques, the latter to provide salt at rates from $1.75 to $3.50 per bushel (pp. 90-91). The East Tennessee and Virginia and the East Tennessee and Georgia railroads were of vital significance in transporting salt from the great works in southwestern Virginia to the needy states to the south (pp. 151-157). In Tennessee, as elsewhere, there seems to have been a rather large contraband trade in salt (pp. 161-162).

There are a frontispiece, a map, sixty-eight pages of notes (collected at the back of the book), an eight page bibliography, and an index.

The Beginning of the L & N. The Development of the Louisville and Nashville Railroad and Its Memphis Branches from 1836 to 1860. By Thomas D. Clark. (Louisville: The Standard Printing Company, 1933. 107 pp.)

"What the railroad has done for the United States as a whole the Louisville and Nashville Railroad has done for the South. The Louisville and Nashville system was conceived at a time when transportation needs were great between the Border States and the Lower South. The fathers who projected the road were men familiar with the economic situations of the two sections. The projectors, it is safe to say, were among the foremost railway promoters of the day, because they looked on their intersectional road as a means of preserving the Union and of tearing down economic sectionalism. Had the other railroad promoters of the Union been as wise in the direction of their projects a much closer understanding between the South and the stock and grain growing West would have been possible" (p. 7).

The work is divided into three parts: I The Louisville and Nashville; II The Memphis and Ohio; III The Memphis, Clarksville and Louisville.

Although the study is well documented, it contains neither a bibliography nor an index.

General James Robertson Father of Tennessee. By Thomas Edwin Matthews. (Nashville: The Parthenon Press, 1934. 588 pp.)

"This book was written in the hope that it might be read by and meet the approval of the general reader. . . . It is believed that General Robertson . . . deserves to rank as an illustrous type of the best of these Commonwealth

Builders, who carried the torch of civilization into the wilderness as its advance guard, on its way across the continent; . . . ."

Among the sixty-six chapter titles appear the following: II Education; XIX Lost in the Wilderness; XXIII Robertson's Defense of Fort Watauga in 1776; XXVI Robertson Lives with the Cherokees; XXVII Robertson and His Band of Pioneers Arrive at the Bluffs; XXIX Articles of Agreement or Compact of Government; XXXI Robertson's Speech; XXXII Robertson Goes to Kentucky and Returns; XXXIV Why Robertson Made the Sally; XXXVII Some of Robertson's Work as a Legislator in 1784 and 1785; XLIV The Wounds and Some of the Tragedies He Bore; LI Nickojack; LV Governor Blount and Nickojack. He Caused General Robertson to Resign His Commission in the Army; LVI History's Vindication of Robertson; LVIII Robertson's Diplomacy with the Indians; LXIII General Robertson as a Business Man; LXIV Services During the War of 1812; LXV His Portrait, His Personality and His Character; LXVI General Robertson's Place in History.

There are a few illustrations. Citations appear not in the form of footnotes, but as the final part of a quadruple appendix. No bibliography *per se* is appended, but the preface includes a discussion of sources. The index is lacking.

Two Hundred Years at Muscle Shoals Being an Authentic History of Colbert County 1700--1900 with Special Emphasis on the Stirring Events of the Early Times. By Nina Leftwich. (Birmingham: Multigraphic Advertising Company, 1935. 280 pp.)

Although primarily concerned with the development of Colbert county, Alabama, the author relates in more or less detail many incidents connected with Tennessee or Tennesseans. Among others, these include Colonel James Robertson's punitive expeditions against Creek towns in northern Alabama (p. 16); Muscle Shoals land speculations (pp. 17-18); travel on the Natchez Trace between Nashville and Natchez (pp. 21-25); President Andrew Jackson and the Treaty of Franklin (1830) with the Chickasaw Indians (pp. 30-31); Tennessee River traffic between Knoxville and the ports of northern Alabama (pp. 85, 94).

There are several illustrations, a three page appendix, and a brief bibliography; what is styled the "Index" is in reality the table of contents.

The Transylvania Colony. By William Stewart Lester. (Spencer, Indiana: Samuel R. Guard and Company, 1935. xvi + 288 pp.)

"This study seeks not only to give the narrative history of the Transylvania Colony, pains being taken to sift carefully and critically the available evidence for all the historical facts pertinent to the colony and to evaluate the significance of each incident in the course of the story, but proposes also to make a critical study and evaluation of those phases of its history of a legal and political nature that have for some time been more or less the subjects of controversy" (p. vii).

The chapter headings follow: I Organization of the Transylvania Company; II The Sycamore Shoals Treaty; III Early Pioneer Kentucky; IV The Coming of Boone and Henderson; V Transylvania Institutes a Government;

VI Administration of Transylvania; VII "The Fourteenth Colony"; VIII Revolution in Transylvania; IX Indian Conflicts, 1776-1777; X The Siege of Boonesborough; XI Henderson and Company Versus Virginia; XII Social and Economic Life in Transylvania; XIII Transylvania in North Carolina; XIV Settlement of Henderson.

The study is well documented, and contains a seven page bibliography, yet an index is lacking.

Washington College; A Study of an Attempt to Provide Higher Education in Eastern Tennessee. By Howard Ernest Carr. (Knoxville: S. B. Newman and Company, 1935. vii + 282 pp.)

"The purpose of this study is not to give an extensive detailed account of the history of Washington College, in the light of its success or failure, but to trace certain phases in the development of education in East Tennessee by this example of the growth and development of the 'First Institution of Learning West of the Mountains' " (p. vi).

The chapter titles are: I Samuel Doak and his "Log College"; II The First Days of Washington College and the Presidency of Samuel Doak; III The Failure to Develop an Adequate Foundation during the Period of Rapid Western Development: The Presidencies of John W. Doak, John V. Bovell, James McLin, Samuel W. Doak, Archibald Alexander Doak, and E. Thompson Baird; IV Struggles and Vicissitudes during the Civil War [and] Reconstruction Period; V Reorganization and Beginning of College Work after the Civil War; VI The Establishment of a Self-Help Program under the Direction of James T. Cooter; VII The Rise of Public Schools and the Decline of Washington College as a Classical College; Union and Separation of Washington and Tusculum Colleges; VIII The World War Period and the Reduction to Junior College Work; IX The Administration of Dr. Hubert S. Lyle, the Development of the Self-Help Department, and the Great Increase in the Permanent Endowment; X The Present Administration and Problems of the College, the Type of Work Being Done, and the Future Outlook.

There are fifteen illustrations, twenty-two appendices, and a five page bibliography. There is, however, no index.

Chronicles of Maryville College A Story of Altruism Book One A Century of Maryville College 1819-1919 Book Two Second Century Beginnings 1919-1935. By Samuel Tyndale Wilson. (Maryville, Tennessee: The Directors of Maryville College, 1935. xvi + 334 pp.)

"Although historical, this book is not a history. It is intended . . . to be a character sketch of Maryville College. . . . The destruction of almost all the ante-bellum records of the College has greatly increased the difficulty of [the writer's] task; and so he is deeply grateful to the friends that have contributed information that has been so much the more valuable on account of the absence of these official records" (pp. vi-vii).

The volume is organized as follows: Book One (A Century of Maryville College), Part First (The Ante-Bellum Maryville): I The Great Southwest and its Challenge; II Isaac Anderson and His Vision; III Isaac Anderson and His "Log College"; IV Dr. Anderson and His Southern and Western

Seminary; V Days of Creation; VI Days of Providence; VII The Teachers That Served; VIII The Friends That Helped; IX The Plant That Had to Serve; X Crises and the Cataclysm; Part Second (The Post-Bellum Maryville): I College Ruins; II College Re-Creation; III College Endowment; IV College Evolution; V College Expansion; VI Maryville's College Standards; VII Maryville's Student Body; VIII Maryville's Helping Hand; IX Maryville's Manhood Product; X Maryville's Second Century; Book Two (Second Century Beginnings): I The World War; II Maryville's Centennial; III Post-War Problems and Policies; IV Further Emergencies and Urgencies; V The Sixth Administration; VI Many Objectives Attained.

Included are forty-one illustrations, a one page appendix, and an index of names and places. There is no bibliography.

A History of Cumberland University 1842-1935. By Winstead Paine Bone. (Lebanon, Tennessee: The Author, 1935. 303 pp.)

"The story here presented is the first more or less complete history of the University. . . . The author has endeavored . . . to keep in mind the main facts in the institution's history, the secret of its power and growth, its leading spirits, its contribution in character, culture, and service, and the mission which it aims to fulfill in the future" (pp. 7, 9).

The chapters are entitled: I The Land and the People; II Cumberland University Established; III President Franceway Renna Cossitt, 1842-1844; IV President Thomas C. Anderson, 1844-1866; V President Anderson's Closing Years, Teachers in the College of Arts, 1842-1866; VI President Benjamin W. McDonnold, 1866-1873; VII Chancellor Nathan Green, Jr., 1873-1902; VIII Teachers in the College of Arts, 1873-1914; IX President David Earle Mitchell, 1902-1906, Acting President Nathan Green, Jr., 1906-1909; X President Winstead Paine Bone, 1909-1914; XI President Samuel Andrew Coile, 1914-1916, Acting President Homer Allin Hill, 1916-1917; XII President Edward Powell Childs, 1917-1920, Acting President Andrew Blake Buchanan, 1920-1922; XIII President John Royal Harris, 1922-1926; XIV President Ernest Looney Stockton, 1926-; XV The Law School, 1847-1935; XVI Teachers in the Law School, 1847-1935; XVII The Theological School, 1854-1909; XVIII Teachers in the Theological School, 1854-1909; XIX The Other Schools; XX The Student Body; XXI Extending Aid to Students; XXII The Alumni; XXIII Cumberland's Notable Record; XXIV Cumberland, Today and Tomorrow.

There are copious illustrations, an appendix of eight parts, and an index, but there is no bibliography.

Bob Taylor and the Agrarian Revolt in Tennessee. By Daniel Merritt Robison. (Chapel Hill: The University of North Carolina Press, 1935. vii + 238 pp.)

"This study grew out of an interest in that unique political campaign, the War of the Roses, in which the brothers, Robert L. Taylor, Democrat, and Alfred A. Taylor, Republican, contested for the governorship of Tennessee. The writer has found that outside the state there is much interest in that campaign. How did it happen that the two major parties chose brothers as oppos-

ing candidates for high position? The attempt to answer that question led to a study of political alignments as well as the forces, circumstances and personalities which produced those alignments. In this, facts appeared which seemed to contain more than local or passing interest. The influence of economic and social forces which had their beginnings in frontier days, after-effects of civil war and reconstruction, political traditions coming down from Andrew Jackson, James K. Polk and Andrew Johnson, as well as from other illustrious Tennesseans of their times, all contributed to the peculiar situation which produced the War of the Roses" (p. v). "For the facts . . . the writer has relied largely upon the newspapers of the period and on the official documents of the state of Tennessee and the *Congressional Record*" (p. vi).

The chapters are entitled: I Party Divisions from Jackson to Taylor; II Democratic Issues and Candidates in 1886; III The War of the Roses; IV The Blair Bill and the Tariff as State Issues; V Taylor as Governor; VI The Agrarian Movement; VII The Defeat of Populism; VIII The Return of Taylor; IX Taylor's Contribution in Tennessee Politics.

This book is well documented, and contains six and a half pages of bibliography, with a good index.

NOTES AND NEWS*

The annual banquet of The East Tennessee Historical Society was held on October 4 at the Andrew Johnson Hotel, Knoxville. Professor W. S. Webb, of the University of Kentucky, delivered an address, "The Prehistory of East Tennessee". The speaker had been in charge of the recent excavation of the Indian remains in the Norris Basin. Many slides illustrating that work were shown.

The C. M. McClung Award was won by Mr. A. C. Hutson, Jr., for his contribution, "The Coal Miners' Insurrections of 1891 in Anderson County, Tennessee", to the *Publications,* Number 7. The judges who made the decision were Professors A. T. Volwiler, Ohio University; Laura White, University of Wyoming; and W. H. Stephenson, Louisiana State University.

At the December meeting of the Society the following officers for 1936 were elected: Dr. Culver H. Smith, University of Chattanooga, president; Mr. T. A. Adams, Knoxville, Judge S. C. Williams, Johnson City, and Mr. George Fort Milton, Chattanooga, vice-presidents; Miss Laura E. Luttrell, secretary; Mr. Harvey Broome, treasurer; Miss Mary E. Baker, executive committee member. Those elected to the board of editors were Dr. W. Neil Franklin, managing editor, Miss Mary U. Rothrock, Dr. P. M. Hamer, and Dr. St. George L. Sioussat.

The Southern Historical Association's first annual meeting, held at Birmingham, October 25-26, was attended by a number of the officers and members of The East Tennessee Historical Society. Among these were Dr. P. M. Hamer, former president and former editor of the *Publications*; Dr. S. J. Folmsbee, president; Dr. W. Neil Franklin, managing editor; Dr. Marguerite B. Hamer; Dr. J. B. Sanders; Prof. V. M. Queener; and Mrs. Claude A. Campbell. At this meeting Dr. Hamer was elected vice-president of the Association. He is also a member of the editorial board and author of the initial article in the first number (February) of the Association's publication, *The Journal of Southern History.*

*Compiled by the secretary of the Society, Miss Laura E. Luttrell. Unless otherwise indicated all dates refer to 1935.

The American Historical Association held its fiftieth annual meeting at Chattanooga, December 27-30. The East Tennessee Historical Society, The Mississippi Valley Historical Association, and a number of other historical societies met concurrently.

Members of this Society attended various luncheon and dinner conferences, round tables, and social functions of the four days' meeting. A number of them served on the committee of local arrangements, of which Mr. George Fort Milton was honorary chairman, and Dr. Culver H. Smith, executive chairman and secretary.

Miss Zella Armstrong was chairman of arrangements for the joint luncheon conference of The American Historical Association and The East Tennessee Historical Society, Friday, December 27, at the Hotel Patten. The joint luncheon was splendid in appointment and well attended. Dr. S. J. Folmsbee, president, turned the conference over to the chairman, Dr. Charles S. Sydnor, of the University of Mississippi. Dr. T. D. Clark, of the University of Kentucky, addressed the gathering on "Chattanooga as an Ante-bellum Railway Center". Dr. P. M. Hamer was leader of the discussion. Judge S. C. Williams, Dr. W. B. Hesseltine, and others took part in the discussion.

Other members of this Society participated in programs. Dr. Daniel M. Robison made an address, "From Tillman to Long — Some Striking Leaders of the Rural South", at the Read House, on Friday morning. Mr. George Fort Milton was toastmaster at the joint dinner of The American Historical Association and The American Political Science Association.

During the meeting the Society had on display an exhibit in the lobby of the Hotel Patten.

Dr. Philip M. Hamer resigned in June as acting dean of the college of liberal arts and head of the history department of the University of Tennessee in order to accept a position in the accessions division of The National Archives, Washington, D. C. He had been at the University of Tennessee since 1920, and had done much research in Tennessee history. His new employment called originally for a survey of records of the interior department of the United States.

Dr. Carl S. Driver, of Vanderbilt University, was made chairman of the program committee for the 1936 meeting of The Mississippi Valley Historical Association to be held at the University of Texas, Austin.

"Smoky Mountains History as Told in Place-names", by Paul M. Fink, which appeared in The East Tennessee Historical Society's *Publi-*

cations, Number 6 (1934), has been republished in the *Bulletin* of the Potomac Appalachian Trail Club, beginning in the October number.

Dr. Marguerite B. Hamer is author of "The Foundation and Failure of the Silk Industry in Provincial Georgia", published in the April issue of *The North Carolina Historical Review.*

Realizing that the majority of high school seniors are unfamiliar with the history of their own county and community, Miss Nannie Lee Hicks, teacher of American history at Central High School, Knox county, for about twelve years, has had her students prepare papers on phases of local history. This plan has added much to the interest of the students in the history of East Tennessee, and, what is very important, has led them to aid in preserving records and traditions.

Adolph S. Ochs, publisher of the New York *Times* and a life member of The East Tennessee Historical Society, died April 8 in Chattanooga. He was a former resident of Knoxville, where he had his first newspaper training under Captain William Rule on the Knoxville *Chronicle.* Later he went to Chattanooga and became owner of the Chattanooga *Times.* In 1896 he went to the New York *Times.* He was born in Cincinnati, March 12, 1858. He is buried near White Plains, New York.

Dr. Jennings Bryan Sanders, formerly of the history staff of the University of Alabama, was appointed head of the history department of the University of Tennessee. He is a sustaining member of the Society.

Judge Harry B. Anderson died at Jackson on April 9. Since 1925 he had been federal judge for West Tennessee. John D. Martin, of Memphis, was appointed, April 22, to succeed Judge Anderson.

Dr. Wilson Lloyd Bevan, a professor at the University of the South, died at his home at Sewanee, April 8.

Dr. William C. Binkley, of Vanderbilt University, was appointed in April a member of the board of editors of *The Mississippi Valley Historical Review.* He was a member of the University of Texas summer faculty.

United States Congressman Joseph Wellington Byrns, of Nashville, was elected speaker of the House of Representatives on January 3.

Judge Charles Jones Cullom, of Livingston, chancellor of the fourth Tennessee division, died, March 2.

Burgin E. Dossett, of Jacksboro, was elected commander of the American Legion, department of Tennessee, August 20, at the annual convention at Memphis.

Bishop Thomas Frank Gailor, chancellor of the University of the South at Sewanee, died on October 3. He was born September 17, 1856, at Jackson, Mississippi. His home was in Memphis. He became the third bishop of the Episcopal diocese of Tennessee in 1898, upon the death of Bishop Quintard. For two terms he served as president of the national council of the Episcopal Church in America. He is buried in the Sewanee cemetery. Bishop Gailor was formerly a sustaining member of The East Tennessee Historical Society. The Right Reverend James M. Maxon, of Chattanooga, has succeded to the bishopric.

Julian L. Harris, son of Joel Chandler Harris, was appointed executive editor of the Chattanooga *Times* in August.

James D. Hoskins was re-elected president of the University of Tennessee, August 22.

Reverend Thomas P. Johnston was elected, in August, president of King College, Bristol. He succeeded Dr. Robert Yost, resigned.

Dr. Ralph W. Lloyd, president of Maryville College, was chosen by the American Interchange Commission, as one of twelve American speakers to spend the summer in Great Britain and on the continent in an interchange of speakers.

Dr. Edwin Mims, professor of English at Vanderbilt University, was visiting Carnegie professor in five foreign universities, where he delivered lectures on American literature.

Miss Libbie Luttrell Morrow, editor of the literary page of the Nashville *Banner,* died December 30, 1934. As a memorial to her the Tennessee Press and Authors' Club inaugurated a contest for Tennessee writers. An annual award of twenty-five dollars will be made.

Ex-governor Malcolm Rice Patterson, of Memphis, died at Sarasota, Florida, on March 8. Before his governorship, which was from 1907 to 1911, he had served three terms in Congress. In 1923 he became circuit judge and served about twelve years. He was born in Somerville, Alabama; he is buried in Forest Hill Cemetery, Memphis.

Dr. William A. Provine, of Nashville, editor of the *Tennessee Historical Magazine* since 1918, died July 14. He was also corresponding

secretary of the Tennessee Historical Society. He was a retired Presbyterian minister, the son of Reverend John Calhoun Provine. He received the degree of bachelor of divinity from the theological department of Cumberland University in 1889.

Sam R. Sells, former Congressman, died on November 2 at his home in Johnson City. He was a member of the sixty-fifth Congress. He was a trustee both of King College, Bristol, and of Lees-McRea College at Banner Elk, North Carolina.

Bishop Alphonse John Smith, head of the Catholic diocese of Nashville, died December 16. He organized the Knoxville Catholic High School, also the Father Ryan School at Nashville.

Judge Samuel M. Young, of Dixon Springs, died on March 19. He was a member of the Tennessee Historical Society and a contributor of local historical sketches to the press. He was also a member of the Sons of the American Revolution.

A monument at Elizabethton to the memory of John, Landon, and Elizabeth Carter was dedicated, August 26, by their descendants. Reverend David Wendell Carter, of Georgetown, Texas, oldest descendant present, is also a descendant of John Sevier.

The site of the original Presbyterian church at Soddy, in Hamilton county, was marked by the John Ross Chapter, Daughters of the American Revolution, in May. This church was organized in 1828. Mrs. Hanes Lancaster, historian of John Ross Chapter, was in charge of the unveiling. Reverend J. R. McKee, pastor of Zion Presbyterian Church at Columbia, Tennessee, made the dedicatory address.

Bronze markers were unveiled by the Fort Nashborough Chapter, Daughters of the American Revolution, at the graves of Ann (Robertson) Johnson Cockrill and her husband, John Cockrill, on April 11. Both were pioneer settlers and were passengers on Captain Donelson's boat, the *Adventure,* on its epochal trip to Nashville. Mrs. W. O. Floyd, regent, presided; the address was by Judge Albert Ewing, oldest living descendant of the pioneer couple.

A tablet placed upon the tomb of Andrew Ewing, clerk of the first court of Davidson county, was unveiled in the city cemetery of Nashville, on May 1. Andrew Ewing was one of the signers of the Cumberland compact. Campbell Chapter, Daughters of the American Revolution, sponsored the ceremonies, at which were present a number of the descendants of Andrew Ewing.

A marker, donated by the United States war department, was placed at the grave of Five Killer, about five miles from Benton. Chief Five Killer, a hero of the War of 1812, was the son of Nancy Ward, distinguished friend of Tennessee pioneers.

Approval was given to the Works Progress Administration project of restoring old Fort Loudoun, in Monroe county, and, also, to that for the construction of a highway from Niles Ferry to the fort. The fort was built, in 1756-57, by the South Carolinians on the Little Tennessee River, about thirty-six miles from the Knoxville of today. Captured and destroyed by the Cherokee Indians in 1760, it was never rebuilt.

The restoration of Fort Negley, a Civil War fortification on the second highest hill in Nashville, was undertaken as a project approved by the Tennessee Emergency Relief Administration. Mr. H. E. Richards was the engineer in charge.

The Works Progress Administration has allotted $70,000 for the restoration of President Andrew Jackson's old home to its nineteenth century likeness. The establishment of a real plantation just as Andrew Jackson oversaw in his day is the aim of the Ladies' Hermitage Association. The two-story log cabin, in which the family lived while the Hermitage was under construction, will be rebuilt. The Hermitage has been a national shrine since 1889.

A marker to the memory of Thomas Hill, Revolutionary soldier, was unveiled on August 22, at the Anderson graveyard near Doyle, where he was buried. The program was sponsored by the Rock House Chapter, Daughters of the American Revolution. James B. Hill, president of the Louisville and Nashville Railroad, and a descendent of Thomas Hill, delivered the dedicatory address.

The Rachel Stockley Donelson Chapter, Daughters of the American Revolution, on April 24 (the 150th anniversary of the landing of Colonel and Mrs. John Donelson and their party at French Lick), in the Hermitage grounds placed a bronze marker upon the monument of Rachel Jackson to designate her as the daughter of a Revolutionary soldier, Colonel John Donelson. Miss Zella Armstrong made the dedicatory address.

Congress passed a bill in August for the creation of the Andrew Johnson national monument at Greeneville. This will include the site of the tailor shop, the homestead, and the burial place of the former president.

In memory of Captain James Leeper, a signer of the Cumberland compact, who fell, mortally wounded, in the Battle of the Bluffs in 1781, the Cumberland Chapter, Daughters of the American Revolution, placed a marker on May 1 at the replica of Fort Nashborough.

The oldest tavern in Monroe county, at Madisonville, was razed in August. It was a log house erected about 150 years ago by Madison Greenway. It had been a stopping point on the stage coach route from Knoxville to Chattanooga in the early days.

The grave in Friendsville cemetery of James Matthews, a Revolutionary soldier under Captain Blount and Colonel Shepard, was marked on May 28 by the Mary Blount Chapter, Daughters of the American Revolution.

On June 14, Jane Knox Polk, daughter of Colonel James Knox (Revolutionary soldier) and mother of President James Knox Polk, was memorialized by having a marker unveiled at her tomb in Greenwood Cemetery in Columbia by the Tennessee Chapter, Daughters of the American Revolution.

The Rock House Chapter, Daughters of the American Revolution, on May 5, unveiled and dedicated a marker, four miles east of Sparta, designating the old Rock House, for which the chapter was named, and also in connection with the celebration of the 100th anniversary of the building of the old stage road between Knoxville and Nashville. Dr. W. B. Young, manager of the Tennessee Products Corporation, gave a history of the Rock House and of the old stage road.

A celebration, commemorating the founding of the Transylvania Company, the treaty with the Cherokee at Sycamore Shoals, and the founding of the state of Transylvania, was held October 12, at Boonesboro, Kentucky. Governor Hill McAlister was represented at the festivities by Dr. R. H. White of the state health department.

In honor of Dr. Charles W. Dabney, president of the University of Tennessee, 1887-1904, the new chemistry building, Dabney Hall, was dedicated on May 21. President James D. Hoskins and others spoke at this time and Dr. Dabney made response.

The Austin Peay Memorial Administration Building at the University of Tennessee was dedicated, October 19. The late Governor Peay had sponsored the expansion of the university's building construction program. Mr. George Fort Milton delivered the dedicatory address.

The centennial of the discovery of Beersheba Springs, on Cumberland Mountain, was celebrated, June 15-16, by a parade, pageant, and other festivities.

On August 4 McMinnville celebrated its 125th anniversary. McMinnville was established in 1810, and named in honor of Joseph McMinn, who was then speaker of the Senate and who became governor in 1815.

The centennial of John Howard Payne's visit to Tennessee was celebrated in November, at Cleveland, by the Ocoee Chapter, Daughters of the American Revolution. It was at the home of the Cherokee chief, John Ross, that the author of *Home, Sweet Home* was arrested, thence to be taken to Georgia.

November 24 marked the 100th anniversary of the establishment of Lauderdale county. The following list includes counties that will celebrate centennials or sesqui-centennials:

Benton county was formed from Humphreys county by act of December 19, 1835, to become effective January 1, 1836.

Bradley county was established by act of February 10, 1836. Already extensive plans are under way to celebrate that event at Cleveland next June.

Cannon county was formed from parts of Warren, Rutherford, and Smith counties, by act of January 31, 1836.

Coffee county was formed from parts of Bedford, Warren, and Franklin counties, by act of January 8, 1836.

Hawkins county was formed from Sullivan county by act of North Carolina in 1786.

Johnson county was established by act of January 2, 1836.

Marshall county was formed from parts of Bedford, Maury, Giles, and Lincoln counties by act of February 20, 1836.

Meigs county was formed from Rhea county by act of January 20, 1836.

Sumner county was formed from Davidson county by act of North Carolina in 1786.

Near Chattanooga the Tennessee Valley Authority will construct the Chickamauga dam on the Tennessee River.

The second national folk festival met in Chattanooga, May 12-18. Previous to this convention "try-outs" to select fiddlers, square dancers, and singers were held at Crossville and other towns. The festival was sponsored by a Chattanooga committee, headed by the chamber of commerce. The Folk Lore Society was organized at the Tennessee Poly-

technic Institute in November, 1934, with the following officers: Paul Green, playwright, president; Constance Rourke, author, vice-president; Major M. J. Pickering, secretary-treasurer; Sarah Gertrude Knott, founder and director.

In the Great Smoky Mountains National Park from Newfound Gap to Davenport Gap, a distance of over thirty miles, a splendid new trail was completed in November. This part of the Appalachian Trail affords the hiker comfortable access to a part of the park that was formerly difficult to negotiate.

In September Senator George W. Norris, of Nebraska, visited Norris Dam, which is named in his honor.

Thirty-seven hundred and twenty-three graves were removed from the area which will be inundated by the Norris Dam Lake. Twenty-three, by request of relatives, were not disturbed. A record of every grave and a photograph of every marker will be filed at the University of Tennessee.

The Polk county courthouse at Benton was destroyed by fire on December 2. There was a similar fire in 1894.

Mrs. L. W. McCown, of Johnson City, supervised the Tennessee Emergency Relief Administration project of organizing and filing the old records in the courthouse in Jonesboro.

The Works Progress Administration project for copying and preserving early court records in Tennessee counties is being supervised by Mrs. Penelope Johnson Allen, of Chattanooga. This project is sponsored by the Daughters of the American Revolution. Included, also, is the copying of church records, Bible and tombstone records, and unpublished manuscripts.

Writers are gathering information about all the counties of the state as a part of the work on the American Guide Book being prepared as a project of the Works Progress Administration.

The voluminous correspondence, chiefly for the period 1880-1900, of the late Reverend J. Hayes Allin was presented to the McClung Historical Collection of the Lawson McGhee Library, Knoxville, by Mr. Allin Stephens, of East Chattanooga. A calendar of these letters was begun by Maryville College Tennessee Emergency Relief Administration students and is being continued by a University of Tennessee National Youth Administration student.

Among recent accessions of the McClung Historical Collection of the Lawson McGhee Library, Knoxville, are six volumes of typewritten copies of the original records of the Society of Friends of Lost Creek (Jefferson county) and New Hope (Greene county). These cover births, marriages, deaths, monthly and quarterly meetings, 1797-1871.

In the magazine section of the Chattanooga *Times* Mrs. Penelope J. Allen has continued her "Leaves from the Family Tree", giving sketches of the families of Anderson, Butler, Callaway, Campbell, Craigmiles, Darwin, Doren, Gregg, Lea, Leith, Leuty, Maberry, McMillin, Mathis, Rhea, Roberson, Roddy, Rowles, Van Dyke, Waterhouse, and Yarnell.

Miss Zella Armstrong contributed to the Chattanooga *Sunday Times* a series of articles pertaining to the mayors of Chattanooga. The first of these appeared in January. Other contributions of Miss Armstrong were "John Howard Payne in Tennessee", in the issue of November 3; and "Chattanooga's First Newspaper", in the issue of November 24.

"The Bishops of Tennessee", by Mr. Moultrie Guerry, appeared in the Chattanooga *Times* of November 3.

During 1935 Mrs. Ada Campbell Larew contributed the following articles to Sunday issues of the Knoxville *Journal*: "Sam Houston's War Letters"; "Knoxville in the War between the North and South"; "Knoxville Under Two Flags"; "John Howard Payne"; and "History of the Ladies Memorial Association".

Between January and April Mr. Ray D. Webb continued his series of sketches in the Knoxville *Journal* entitled "Meetin' in the Meetin' House". These were accounts of visits to a number of churches in and near Knoxville.

In *The Lookout* Miss Zella Armstrong published, during the year, histories of the families of Anderson, Blackburn, Bledsoe, Borden, Donelson, Hardwick, Henderson, Hite, Jones, Lyle, McDowell, Matlock, O'Neill, Smith, Stockley, Taylor, Vance, and Walker.

"Methodism in Tuckaleechee Cove", by Reverend I. P. Martin, appeared in the Knoxville *News-Sentinel,* May 18.

"John Ross, John Howard Payne and the Cherokee", by Judge Charles W. Lusk, was published in *The Lookout,* November 15.

Mr. C. C. Justus is the author of sketches of the counties of West Tennessee published in Sunday editions of the Memphis *News-Scimitar.*

The Morristown *Sun* issued an illustrated edition, September 5, containing historical sketches of Morristown and Hamblen county. Mrs. Catherine Ann Taylor Miller contributed "A Group of Related Presbyterian Churches"; Dr. Pryor Lee Brock, "The McClister Family"; and Mrs. Fred Hale, "A History of Hamblen County's Women's Clubs".

Controversy over the location of the Cherokee nation's council house, "Red Clay",—whether in Tennessee or in Georgia—occasioned the publishing of articles thereupon by Mrs. Penelope J. Allen and Miss Zella Armstrong in the Chattanooga *Sunday Times*, and by Mr. J. M. Wooten in the Cleveland *Herald* and the Dalton (Ga.) *Citizen*.

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Adolph S. Ochs, a life member, died April 8, 1935.

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